JOINT STOCK COMPANIES

R.S.E. FARRIES

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JOINT STOCK COMPANIES.

JOINT STOCK COMPANIES;

BEING A

Practical Treatise

ON

THEIR FORMATION, MANAGEMENT AND WINDING-UP

UNDER "THE COMPANIES ACT, 1862."

COMPRISING

INTRODUCTORY SKETCH AND STATISTICS; COPIOUS INSTRUCTIONS TO PROMOTERS, DIRECTORS, OFFICERS AND ALL PERSONS OFFICIALLY OR OTHERWISE CONNECTED WITH PUBLIC COMPANIES.

CONTAINING ALSO

A LIST OF THE BOOKS REQUIRED BY A PUBLIC COMPANY, AND HINTS AS TO FORMS AND MODE OF KEEPING SAME.

TOGETHER WITH

Abstracts of Table B from The Joint Stock Companies Act, 1856; *of The Fraudulent Trustee Act; of The Railway Companies Arbitration Act*, 1859, *and of The Companies Seals Act*, 1864.

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PREFACE.

THE passing of "The Companies Act, 1862," effected many important changes in the then existing law, and greatly increased the facilities for promoting Joint Stock Companies, with or without limited liability. Indeed, it may almost be said to have introduced free trade into that useful branch of commerce, judging from the comparatively few restrictions which are now placed upon public associations. And if the utility of any measure may be estimated by its success, the number of companies to which this Act alone has given birth, would warrant us in claiming for it a very prominent place in the Statute Book of Great Britain.

It is not at all improbable that we shall, ere long, ignore private enterprise altogether, and have every want supplied, under the immediate auspices of a "body corporate," with limited liability. At the present time we have our breakfast-tables supplied by an aërated bread company—we hurriedly glance over the morning papers and find them monopolising the lion's share of the advertising columns—we rush out of the house and in a moment are ensconced in a company's omnibus—we dabble all day and transact a great part of our business with the aid of directors and common seals—we dine at a limited company's hotel, and are again landed at our homes under their mighty protection. In short, every business-man is either directly or indirectly influenced by this great monomania, and whether it be in the capacity of a promoter, director, officer, shareholder, or creditor, it is well that he should know some-

thing of the formation, operation, and winding-up, of these fast increasing and powerful engines of commerce.

For this purpose alone, then, have the following pages been written. Not with a view to making the reader his own lawyer, for that theory has long since been exploded. To dispense with the assistance, when necessary, of gentlemen who devote their whole energies and lives to the learned professions would be folly that need not be expatiated upon here. Although Blackstone strongly recommends every man to become familiar with the laws of his country, he does not suggest the propriety of drawing his own deeds and of pleading his own causes *in propria personâ*.

It is quite expedient that we should all have some acquaintance with physiology, and the laws that govern health; but it would be unwise in the extreme to imagine therefore that we should at once take up the pharmacopœia and prescribe for our own infirmities. By means of the first knowledge much disease, both physical and mental, may be avoided; but the exercise of the second is not unlikely to result in premature death, and a coroner's inquest.

Having, then, disclaimed all interference with the legal province of the question, I will content myself by simply offering the following pages as a compilation intended for the perusal of business-men who would wish to gather a general knowledge of the rules which govern the working of a most important branch of our great commercial economy.

If, in addition to the latter object, my remarks on the management of public companies, and the selection and keeping of suitable books, should prove useful to solicitors and other professional readers, the full end and aim of this little work will have been completely attained.

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INTRODUCTION.

THE numerous advantages arising from public association for individual benefit are nowhere more widely recognised than in Great Britain. Neither is the appreciation of this great principle confined to a particular class; on the contrary, it is universal. As in the working men's co-operative societies, which flourish in every village of the manufacturing districts, with their modest stock-in-trade; so in the gigantic undertakings in the metropolis, whose capital is told in millions, the same feeling is manifested.

Considering the vast accumulation of wealth in England, only waiting for profitable investment, it is surprising that the Legislature should have allowed so recent a period as 1856 to arrive before adopting any effectual measure which would enable the capitalist to entrust his money to the keeping of joint stock companies, without rendering himself liable to the unpleasant contingency of some day been utterly ruined. It seems that even so late as 1854 a royal commission, charged to inquire into the law of partnership, reported against limited liability; and it was due to the present Solicitor General that a re-

solution was subsequently passed in the House of Commons, which paved the way for the important Act of 1856. Great, however, as were the changes effected by the latter statute, there was still much remaining to be accomplished. Experience has since proved, that the restrictions it contained with respect to banking and insurance companies were ill-founded; and the fact that we have now upwards of thirty limited banks in the metropolis alone, is conclusive evidence that the principle of limited liability is by no means inapplicable to the successful operation of such undertakings.

The comparative popularity, so to speak, of the Acts of 1856 and 1862, may in some measure be gathered from the voluminous returns recently laid before the House of Commons. It appears that, during the first year of the operation of the former Act, 440 limited companies were registered in England under its provisions, *but in no succeeding year was the number so large;* while in the case of the latter it reached 642 in a similar period; and what is still more striking, continued up to the date of the returns (May 31, 1864), in an increasing ratio, as no less than 563 additional limited companies were registered during the seven months intervening between the end of the first year and the date of the returns. It will thus be seen, that the average of the first year was about 53 per month, while the subsequent period gives an increased average of about 80.

Did space permit, we might cull some very interesting particulars from the copious returns we have just referred to; but it will be sufficient for our purpose to take a cursory glance at some of the most prominent facts

which are therein furnished, with reference to the first year's operation of the present Act.

The nominal capital of the 642 companies above mentioned amounted to nearly 129,000,000 sterling; but it is needless to tell the reader that the word "nominal" may be here accepted in its widest sense, for these almost fabulous figures do not give the remotest idea of the capital actually invested. Neither do the returns enable us to estimate it, as a large number of companies had not rendered accounts of calls received at the date to which such returns are made up.

The aggregate amount called up by those companies which had sent the necessary information, is, in round numbers, about £5,600,000, and if we double this sum to allow a margin for the returns that had not been made, it will only give a little more than a twelfth part of the nominal capital. It is, of course, true that the members of these companies are still liable for the whole of such capital as far as the shares have been taken up, but it remains to be seen to what extent it will be made available. Only two companies had called up the total amount of their capital; and as an illustration of how little the nominal capital has to do with the sum likely to be actually invested, we may remark, that a company with a nominal capital of £3,000 had actually called up nearly £200 more than another company having a like capital of £200,000. In another instance, a company with £3,000,000 had called up more than £250,000 in excess of a company with £10,000,000. So a company with £25,000 as its nominal capital had received upwards of twice as much as one with £800,000. The

three following companies, reported to have been "still in operation," seem to have exercised the greatest economy in this respect:—

		Had only called up
No. 1, with a nominal capital of	£100,000 . .	£625 0s.
„ 2, „ „	5,000 . .	138 5s.
„ 3, „ „	2,000 . .	86 10s.

The fees payable on registration no doubt in some measure contribute to the apparent recklessness with which promoters seem to fix the amounts of their nominal capital, as, according to the present table, a company having a capital of £525,000, would have to pay just as much as one with as many millions or more, the *maximum* fees so payable being limited to £50. It is a question for the consideration of our legislature, whether an amendment of this table would or would not exercise a salutary influence in this respect, although in the majority of cases the figures at the head of a prospectus, even the most extravagant, are comparatively harmless, unless, indeed, they are deliberately placed there to mislead the public in estimating the magnitude of the undertaking, or otherwise to deceive intending shareholders. Considering, however, the facility with which a company may increase its capital when deemed expedient to do so, there certainly appears less reason why the nominal capital should in most instances be out of all proportion to the sum likely to be called into requirement.

One very striking and by no means the least agreeable feature about the present joint stock law is its universal applicability to every conceivable form of commercial industry. Containing no restrictions as to amount of

capital (such as were originally proposed to be introduced in the Act of 1856,) we find companies formed with a nominal capital, which does not reach a twentieth part of the amount sometimes charged by financial associations for the mere *promotion* of many of our larger companies.

During the period under our consideration, only nine companies were formed in England with unlimited liability, while the principle of "limited by guarantee" seems to have met with still greater disfavour, for only two were formed in the year, of which one was not in operation at the date of the returns, and the other was merely "supposed" to be in operation.

In *Ireland* twenty companies were formed with limited liability, whose nominal capital amounted in the aggregate to £243,000; in *Scotland* twenty-one companies with a similar capital of £1,102,800; and a dozen companies were registered for working mines within and subject to the jurisdiction of the Stannaries, with a nominal capital amounting in the whole to £267,000.

There were also seventy-six existing companies with unlimited liability, newly placed on the register in England, and thirteen similar companies registered with limited liability.

Such then are a few of the facts showing the operation of the first year of "The Companies Act, 1862," so far as relates to the number of undertakings that were registered under its provisions, but before concluding these remarks there is yet another point that deserves notice. At the date of the returns, all the companies formed and registered in Ireland and Scotland were still in operation, and those in the Stannaries were supposed

to be. In England, however, the case is widely different, for out of the 642 limited companies which were registered here, 494 only are stated to be still in operation, and 43 others were supposed to be. Assuming that the whole of the latter *were* in existence, it will thus be found that within eighteen months after the Act came into operation 105 companies had been dissolved, or at all events, there was strong reason for believing they had discontinued their business, and doubtless many of them had never commenced active operations at all.

It seems unfortunate that the register should be clogged with so many abortive schemes, and we naturally wonder that no measure has been adopted to remedy the evil. We would venture to hint that a "provisional register" might in some degree overcome the difficulty. It might, for instance, be made compulsory, that every joint stock speculation before being submitted to the public, should register provisionally, and pay a small but remunerative *pro rata* fee, to be deducted from the sum payable on ordinary registration, the latter to take place at the expiration of a fixed period, or when so many of the shares were taken up as would warrant the company in commencing business. Promoters might also register their names and addresses, as some slight protection for creditors, and in fact the principle might be extended from time to time as found most expedient, without in any way fettering commerce. If it accomplished no other object it would at least be a valuable statistical fact which would make the returns all the more complete. We should then have laid before us the three stages belonging to the existence of public companies, instead of only two, as at present. Every company, as we are

aware, must go through at least two of these stages, the provisional and the administrative. If the undertaking is a successful one its history is complete in the latter, and as perpetual succession is one of its essential elements, like the king it never dies. There are, however, many companies as we have seen, which go through a third and final stage, or in other words are wound-up. The information as to the two last stages is fully set forth in the returns, but we have no means of ascertaining how many companies fail in properly reaching that which we have designated the administrative. It may be urged that this point is attained immediately on registration, and that an undertaking cannot be regarded as a company until it takes place. We are bound to admit that in theory this is so, but in practice it is well known to be the contrary in a very large number of instances. Many companies, although registered with the requisite number of members, never begin business at all, and do not, therefore, get beyond the *really* provisional part of their existence. Besides, to say the least, it would be an interesting fact to know how many proposed companies had been projected without success, and having their objects duly registered it would afford intending shareholders a means of referring back to see if a new speculation had appeared in any other form before, and how far it had gained public favor.

In throwing out these humble suggestions the Author trusts that he will be acquitted of any further presumption than to claim for them the consideration of gentlemen who are better able to judge of their practicability than he is, and to whose decision he will gladly bow.

EXPLANATION.

For facility of reference, the following pages have been divided into clauses, and numbered from the beginning to the end. "Cl." placed before a number indicates such a clause.

"S" means the section of the "Companies Act, 1862," referring to the matter in question; and "R," the No. of the Regulation contained in Table A of the first schedule thereof (*See* Part VII.) It must also be borne in mind, that in every instance where the latter is embodied, the clause containing the same must be read subject to the company having power to alter the regulation in accordance with the provisions of the "Act."

Also, for sake of brevity,—"The Companies Act, 1862," is simply entitled the "Act." The Registrar of Joint Stock Companies in England, Ireland, Scotland, and the Stannaries respectively, "The Registrar." And "Company" means companies formed and registered under the "Act," unless the context is at variance with such a construction.

PART I.

THE FORMATION OF PUBLIC COMPANIES.

1. It is compulsory that the following Companies formed after the commencement of the "Act" (2nd. November, 1862), shall register under its provisions, unless they are formed in pursuance of some other Act of Parliament or Letters Patent, —or are engaged in working Mines within and subject to the Jurisdiction of the Stannaries, viz:—

   I. Any company, association, or partnership consisting of more than ten persons, and formed for the purpose of carrying on the business of banking, and

   II. Any company, association, or partnership consisting of more than twenty persons, formed for the purpose of carrying on any other business that has for its object the acquisition of gain. (S. 4.)

2. And it may be laid down as a rule that all public Companies, except those which require Special Acts of Parliament or Letters Patent, among which may be cited, Railway Companies and Gas and Water Companies,* must now be formed under and registered in accordance with the provisions of the "Act."

3. It may further be stated that all Companies in existence at the time when the Act came into operation, may register under it, subject, however, to certain conditions, for particulars of which, *vide* Part 6.

4. In order to form a Company, there must be, at least, seven persons, (S. 6.) who are prepared to sign a Memorandum of Association, and their first business is to determine the object which is intended to be carried out, and then to decide upon one of the following forms, viz:—

   1. A Company unlimited:
   2. A Company limited by shares, or
   3. A Company limited by guarantee.

* That is, where these companies require special powers, such as to take land, or to open up highways, &c., for the purpose of laying down pipes.

The first of these forms is, for obvious reasons, daily falling into disuse, and more especially on account of the Members being liable to contribute to the assets of the Company, (in the event of its being wound up), to an unlimited extent.

The second form is the most convenient, and, we may add, the most popular, on account of the liability of its members never exceeding the sum represented by the shares held.

The third form is just as safe, in a pecuniary point of view, as the second; the only difference being, that the liability is limited to the sum which each Member undertakes or guarantees to subscribe, should occasion require.

Preliminary Meeting,—Prospectus, &c.

5. Having settled the two points mentioned in the last clause, the *modus operandi* is a very simple one, and promoters are entirely unfettered by any stipulations as to the method which they shall adopt in bringing the undertaking before the public. Indeed, it not unfrequently occurs that the company is established privately, and the shares taken up, without having recourse to the public at all.

It is customary, however, to hold a preliminary meeting, at which formal resolutions are passed, and carefully entered in a book provided for that purpose.

By these resolutions, provisional directors and officers are appointed, and a prospectus, previously drawn up, is then finally approved of and adopted. We would particularly call attention to the importance of this apparently harmless document, but which, nevertheless, has given cause to much litigation. It requires the most mature and thoughtful consideration of every person connected with the promotion of the undertaking, and should state clearly,

The nature of the proposed company and amount of capital:

The number of shares and the amount of each:

The amount of deposit to be paid on application:

The amount to be paid on allotment:

The amount proposed to be called up, and the interval between each call:

The names and addresses of Directors and officers, and

The object intended to be carried out, scrupulously avoiding all exaggeration or misrepresentation of facts, as well as any allegation likely to deceive or mislead the public. Should this

precaution not be adopted, the directors will be liable to actions for the recovery of the money paid by applicants for shares; and, moreover, may be made criminally amenable, if a fraudulent intent can be shown.

See also liability to debts and penalties, Cl. 27, 295, *et seq.*

6. Another important point to be settled at this meeting, is the form of the Articles of Association for the future regulation of the company, in order that the solicitor may be instructed to draw the same. All or any of the clauses contained in the Articles given in the Schedule of the "Act," (See Table A, Cl. 406,) may be adopted; and should any modification of them be deemed desirable, a resolution should be passed accordingly.

The Allotment.

7. The prospectus having been duly advertised and applications for shares having been made, accompanied by payment of deposit, a list of these should be prepared, on something like the following form.

A few loose sheets, or a small book, will answer the purpose very well, and these may be procured ready printed, with columns for

1. Application number:
2. Allotment number:
3. Name, Description, and residence of the applicant:
4. Number of shares applied for:
5. Deposit paid:
6. Number of shares allotted, and distinctive numbers of same:
7. Amount to be paid on allotment:
8. Amount to be returned on allotment:
9. Regrets.*

8. The directors may then proceed to allot the shares and signify the same to the allotees, by enclosing for their signature a letter of allotment, agreeing to accept the shares, and to pay the calls thereon. The latter document should not embody any fresh conditions, but should be in strict accordance with the terms upon which the application was made for the shares, otherwise the applicant may decline to accept the same.

* In cases where no allotment of shares is made to an applicant, the amount received from him by way of deposit is returned, and inserted in the column headed "Regrets."

No time should be lost in making the allotments of shares, especially as much inconvenience and annoyance may at any moment arise from the withdrawal of applications for same. It appears that even although deposit has been paid, the applicant may withdraw at any time prior to allotment.

If a larger number of shares are applied for than can be allotted, the deposit money of the unsuccessful applicants should be returned at once; and, for this purpose, the separate column above mentioned is used.

Should a smaller number of shares be allotted to any person than he has applied for, the surplus deposit money is always retained in satisfaction, or part satisfaction, of the sum due on allotment; but if, however, a balance in favour of applicant still remains, it should be returned; or should there be a deficiency, it must of course be made good by him.

The Memorandum of Association.

9. The Memorandum of Association is a very simple and concise document, quite distinct from the "Articles," and bearing the same stamp as a deed. It must be signed by each subscriber, and his signature attested by one witness.

10. *If* the Company is an unlimited one, it must contain (S. 10,)
    1. The name of the company:
    2. The place where registered office is proposed to be situated; and
    3. The object for which the company is formed.

    (*See* Form D, Cl. 431.)

11. *If* limited by shares, it must contain (S. 8),—
    1. Name, with the addition of "Limited" as the last word:
    2. Place of registered office:
    3. Object for which it is formed:
    4. Declaration of limited liability; and
    5. Amount of capital divided into shares. (*See* Form A, Cl. 426.)

12. *If* limited by guarantee, it must contain (S. 9),—
    1. Name with "Limited" as last word:
    2. Place of registered office:
    3. Object, &c; and
    4. Declaration that the members respectively agree to contribute the amount guaranteed by each, in the event of the company being wound up while they are

members, or within one year afterwards, for payment of debts, &c. contracted before they ceased to be members, and of the expenses of winding-up. (*See* Forms B and C, Cl. 427 and 429).

Note.—In all companies where the capital is divided into shares, each member must take at least one, and must write opposite to his name the number of shares he takes. (S. 14.)

The Articles of Association.

13. Although a form of Articles of Association is given in Schedule A of the "Act," yet any of the clauses comprised therein may be adopted, omitted or modified, as may best suit the convenience of the proposed company; and if it is limited by shares, it may even go a step further, and register no articles at all (S. 14); but in that case, it will be bound and regulated by the articles above mentioned, just the same as if they had been attached to the "Memorandum" on registration (S. 15).

It is, however, compulsory in the case of a company limited by guarantee, or unlimited, to register articles of association with the "Memorandum" (S. 14).

14. In preparing the articles, the following requirements must be strictly complied with; viz.—

1. To divide the contents into separate paragraphs, numbered arithmetically:
2. If unlimited or limited by guarantee and capital divided into shares, to state amount of capital; or if capital not divided into shares, to state the number of members, in order that the Registrar may ascertain amount of fees payable thereon (S. 14.)
3. To have the articles printed and stamped as a deed:
4. To have them signed by each subscriber in the presence of and attested by at least one witness (S. 16.)

15. The company's solicitor will of course advise as to the form and also as to the expediency of adopting or rejecting any of the Clauses contained in the regulations given by the "Act," (*See* Table A, Cl. 406,) and resolutions should be passed accordingly at the meeting before referred to.

16. It will have been seen that up to the present time the proposed company is not placed under the slightest restriction. There is no limitation as to the disposal of its shares or scrip,

nor in fact as to anything else connected with its provisional existence.

17. It is perfectly free to do as its Directors think fit, and may receive deposits, allot shares, and enter into contracts. But it must be borne in mind that this freedom only exists as long as the undertaking remains unregistered, for in a legal point of view it is not a company at all until that takes place; neither do the allotees become members until after such incorporation, unless they have signed the Memorandum and Articles of Association.

18. If, therefore, the Articles of Association have not been prepared and attached to the "Memorandum" at the time of issuing the Prospectus to be left for the inspection of intending shareholders, as is most frequently the case, they should now be drawn up and executed without further delay. The next step will be to have them registered with the Memorandum of Association, and to have the necessary fees paid—for particulars of which see the following Clauses.

Registration.

19. Take the Memorandum of Association with the Articles annexed (if any), to the Registrar of Joint Stock Companies, Serjeants' Inn, pay the necessary fees according to the following scale, (quoted in Cl. 21 and 22,) and he will give you in return a certificate that the company is duly registered.

See Registration Office, Cl. 359 to 362.

20. Care must be taken that the company does not register under a name identical with that by which a subsisting company is already registered, or so nearly resembling the same as to be calculated to deceive, unless such existing company is being wound up and testifies its consent thereto. Should it occur, however, through inadvertence or otherwise, that a company is so registered, it may change its name with the sanction of the Registrar, who will enter the new name on the register and issue a fresh certificate of incorporation; but no such alteration shall in any way affect the company's rights or obligations, or render invalid any legal proceedings commenced by or against it (S. 20.)

See Cl. 33, 109, and 110, as to change of name by special resolution, where the effect is precisely the same as to legal proceedings, &c.

21. The following is a list of fees payable on registration, (extracted from Table B in the first Schedule to the "Act,") and applies only to such companies as have a capital divided into shares—

	£	s.	d.
Where nominal capital does not exceed £2,000	2	0	0
If exceeding £2,000, the above fee of £2, with the following additional fees—			
For every £1,000, or part of £1,000, after the first £2,000 up to £5,000 .	1	0	0
For every £1,000, or part of £1,000, after the first £5,000 up to £100,000	0	5	0
For every £1,000, or part of £1,000, after the first £100,000 . . .	0	1	0
For registration of any increase of capital made after the first registration of the company, the same fees per £1,000, or part of £1,000, as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no company shall be liable to pay in respect of nominal capital on registration or afterwards any greater amount than £50, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration.			
For registration of any existing company, except such companies as are by the "Act" exempted fromp ayment of fees in respect of registration under its provisions, the same fee as is charged for registering a new company.			
For registering any necessary document other than the Memorandum of Association	0	5	0
For making a record of any fact required to be recorded by the Registrar .	0	5	0

22. The following is a list of fees, (extracted from Table C in

the first Schedule to the "Act,") payable by companies not having a capital divided into shares.

	£	s.	d.
Where the number of members as stated in the Articles of Association does not exceed 20	2	0	0
Where the number of members exceeds 20 but does not exceed 100 . .	5	0	0
Where the number of members exceeds 100, but it is not stated to be unlimited, the above fee of £5, with an additional 5s. for every 50 members or less number than 50 members, after the first 100.			
Where the number of members is stated in the Articles of Association to be unlimited, a fee of	20.	0	0
For registration of any increase on the number of members made after the registration of the company in respect of every 50 members or less . .	0	5	0
Provided that no one company shall be liable to pay on the whole a greater fee than £20 in respect of its number of members, taking into account the fee paid on the first registration of the company.			
For registration of any existing company, except such companies as are by the "Act" exempted from payment of fees in respect of registration under its provisions, the same fee as is charged for registering a new company.			
For registering any document required to be registered other than the Memorandum of Association . . .	0	5	0
For making a record of any fact required to be recorded by the Registrar .	0	5	0

PART II.

THE ADMINISTRATION OR MANAGEMENT.

23. The effect of registration (S. 18), and obtaining the Registrar's certificate thereof, is most important. A comparatively disorganised mass is instantly raised to the dignity of a body corporate, by the name contained in the Memorandum of Association, having perpetual succession and a common seal. It may forthwith exercise all the functions of an incorporated company—commence business, and proceed to carry out the objects for which it was formed. The certificate is, so to speak, its licence; and is moreover held to be conclusive evidence that the requisitions of the "Act," in respect of registration, have been fully complied with.

24. Any company may hold an unlimited quantity of land, except only where it has been formed for the purpose of promoting any charitable or scientific object, in which case it is restricted to two acres (S. 21), but may hold more on obtaining the sanction of the Board of Trade.

Books.

25. The first matter to be attended to before a company commences its operations, is the selection of a requisite number of books; and it is impossible to bestow too much care in having them framed in accordance with the most approved forms. With a view to doing justice to this most important part of the administration, it has been deemed desirable to devote the whole of Part III. to its consideration; and the reader is therefore referred to Cl. 116 to 135 for any information he may require.

COMPULSORY MATTERS REQUIRED BY THE "ACT" TO BE DONE BY PUBLIC COMPANIES.

(*Under penalty and otherwise.*)

26. In speaking of the effect of registration, we have only adverted to some of the *powers* which it confers upon public companies; but it must not be forgotten that it has also another and equally important effect. The "Act" requires that certain things shall be done by them, all of which are compulsory, and of many of which the observance is enforced by heavy penalties, multiplying daily during the continuance of the default. The moment, therefore, that a company becomes incorporated it also becomes bound to carry out these provisions, and for that reason they have been extracted, in order that the full extent of such obligation may be seen at a glance.

27. For sake of brevity it may be stated generally, that in all cases (unless otherwise specified), the directors or other officers by whose particular acts or neglect the default in question may arise, are also personally liable to be mulcted in the same penalties as the company.

28. In England and Wales (S. 65), they may be prosecuted for such offences before two or more justices of the peace; and in Ireland they may also be prosecuted at the petty sessions, in accordance with the provisions of the Act 14 & 15 Vict., cap. 93.

29. In Scotland (S. 65), the penalties are recoverable, either before two or more justices of the peace, or before the sheriff of the county, in manner directed by the Act 17 & 18 Vict., cap. 104.

30. The application of the fines so imposed is in some measure left to the discretion of the justices or sheriff before whom the case is heard; and they may be devoted either towards the paying or rewarding the person at whose instance the proceedings have been taken: or if no such disposal takes place, the sum recovered is paid into Her Majesty's Exchequer, to form part of the Consolidated Fund.—(S. 66.)

The penalties set against each offence are of course the maximum amounts that can be imposed, and the court has the usual power of mitigating them, *ad libitum*.

Registered Office. (S. 39.)

31. Every company must have a registered office in one of the three kingdoms, to which all communications and notices may be addressed.

Penalty (on company alone), of £5 for every day during which business is carried on without one.

Notice of the situation of such office, or any change therein, must be given to the Registrar; and until such notice is given the company shall not be deemed to have complied with the "Act," with respect to having a registered office.—(S. 40.)

Publication of Name. (S. 41.)

32. Every limited company (whether by shares or guarantee), shall paint or affix its name on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible.

Penalty £5, and the like amount for every day during which the default continues.—(S. 42.)

Seal.—It shall also have its name engraven in legible characters on its seal; and

Shall also have its name mentioned in legible characters in all—

Notices, advertisements, or other official documents, bills of exchange, promissory notes, cheques, &c.

Orders for money, or goods signed by or on behalf of the company:

Bills of parcels, invoices, receipts or letters of credit of the company.

Penalty in default, £50, coupled with the personal liability of any director, manager, or officer, to the holder of any such bill of exchange, cheque, &c., unless it be duly paid by the company.—(S. 42.) *See* Cl. 52.

Change of Name.

(*See Cl.* 20, 33, 109, 110.)

33. As this requires the sanction of a special resolution, a printed copy thereof must be sent to the Registrar (*vide* Cl. 41), from which he can enter the new name on the Register, and issue

a fresh certificate, on being satisfied that the approval of the Board of Trade has been obtained.

Banking and other Companies. (S. 44.)

34. Every limited banking or insurance company, and deposit, provident, or benefit society, *shall, before it commences business*, and also on the *first Monday in February* and the *first Monday in August* in every year, make a statement as near to the following form as circumstances will admit, and shall put a copy thereof in a conspicuous place in the registered office, and in every branch or place where its business is carried on.

Penalty, £5 for every day during which default continues.

Any member or creditor may require a copy of such statement, on payment of a sum not exceeding 6d.

Form of Statement.

(*Being Form D in the 1st Schedule of the "Act."*)

* The capital of the company is , divided into shares of each.

The number of shares issued is

Calls, to the amount of pounds per share have been made, under which the sum of pounds has been received.

The liabilities of the company on the first day of January (or July) were,—

Debts owing to sundry persons by the company:

On judgment, £

On specialty, £

On notes or bills, £

On simple contracts, £

On estimated liabilities, £

The assets of the company on that day were,—

Government securities (stating them), £

Bills of exchange and promissory notes, £

Cash at the bankers, £

Other securities, £

* If the company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

See Cl. 317 as to issue of notes.

REGISTER OF DIRECTORS. (S. 45.)

35. Every company, *not having capital divided into shares*, shall keep at its registered office a register, containing the names and addresses, and the occupations of its directors or managers, and shall send to the Registrar a copy thereof, and shall also notify from time to time any change therein.

Penalty £5, for every day during which default continues. —(S. 46.)

MINUTES OF RESOLUTIONS. (S. 67.)

36. Every company shall cause Minutes of all resolutions and proceedings of General Meetings of the company, and of the directors or managers of the company, to be duly entered in books for the purpose; and any such Minute (made according to the instructions contained in Cl. 80,) shall be received as evidence in all legal proceedings.

As to Special Resolutions *see* Cl. 41.

No penalty.

REGISTER OF MEMBERS. (S. 25.)

37. Every company shall cause to be kept in one or more books a register of its members. (*Vide* Cl. 124 to 129, for full instructions hereon.)

Penalty, £5 per day during which default continues.

Such register, commencing from the date of registration of the company, shall be kept at its registered office. Except when closed (Cl. 63), it shall, during business hours, (but subject to such reasonable restrictions as the company may impose in general meeting, so that not less than two hours in each day be appointed,) be open to the inspection of any member gratis, and to any other person on payment of not more than one shilling, and the company shall also furnish (if required), a copy of the whole or any part of such register, or list, or summary of members, on payment of 6d. for every hundred words so copied.

Penalty for refusal £2, and a further penalty for every day during which default continues. (S. 32.)

As to improper entry or omission in the register, *see* Cl. 305.

REGISTER OF MORTGAGES. (S. 43.)

38. Every limited company shall keep a register of all mortgages and charges specifically affecting the property of the company. (See Cl. 149.)

Penalty £50, against any officer of the company in default of making the necessary entries therein.

Shall give inspection thereof to any creditor or member of the company. No fee for inspection mentioned.

Penalty £5, against any officer refusing inspection, and £2 for every day that it continues, with power for judge in chambers, and the vice-warden of the stannaries (in his jurisdiction), to compel immediate inspection.

ANNUAL LIST OF MEMBERS. (S. 26.)

39. Every company having capital divided into shares, shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the date on which the Ordinary General Meeting, or if more than one, the first of such meetings is held, are members of the company; and such list shall state the

Names, addresses, and occupations of all members; and the Number of shares held by each of them.

It shall also contain a summary, specifying the following particulars.

(1.) The amount of the capital and the number of the shares into which it is divided:
(2.) The number of shares taken from the commencement up to date of summary:
(3.) The amount of calls made on each share:
(4.) The total amount of calls received:
(5.) The total amount of calls unpaid:
(6.) The total amount of shares forfeited:
(7.) The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The following is the *form* marked "E," given in second schedule to the "Act."

SUMMARY of CAPITAL and SHARES of the COMPANY, made up to the day of

Nominal capital £ divided into shares of £ each.
Number of shares taken up to the day of
There has been called up on each share £
Total amount of calls received £
Total amount of calls unpaid £

LIST of persons holding shares in the Company on the day of , and of persons who have held shares thereon at any time during the year immediately preceding the said day of , showing their names and addresses, and an account of the shares so held.

Folio in Register Ledger containing particulars	Names, Addresses, and Occupations.				Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing members on the day of	Additional shares held by existing members during preceding year.		Shares held by persons no longer members.		
						Number.	Date of Transfer.	Number.	Date of Transfer.	

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day, and a copy shall forthwith be forwarded to the Registrar.

Penalty in default of sending list £5, for every day during which such default continues (S. 27.)

See Cl. 42 as to effect of consolidation of capital, &c., on this list, also Cl. 142 as to making out list, &c.

GENERAL MEETING. (S. 49.)

40. Every company shall hold a General Meeting at least once in every year.

No penalty.

AS TO SPECIAL RESOLUTIONS. (S. 53.)

(*Also see Cl.* 81 *to* 83.)

41. A copy of any special resolution that is passed by any company shall be printed and forwarded to the Registrar, within fifteen days from the date of the confirmation thereof, and shall be recorded by him.

Penalty £2, for every day (after expiration of such fifteen days), during which default continues.

Members may require copies. (S. 54.)

If Articles of Association have been registered, a copy of such special resolution, for the time being in force, shall be annexed to or embodied in every copy of the "Articles" issued after the passing of the resolution. Where no Articles of Association have been registered, a copy of any special resolution shall be forwarded in print to any member requesting the same, on payment of not more than 1s.

Penalty £1 for each copy in respect of which default is made.

CONSOLIDATION OF CAPITAL INTO STOCK. (S. 28.)

42. Every company having a capital divided into shares, that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall give notice to the Registrar, specifying the shares so consolidated, divided, or converted.

No penalty.

Effect of conversion into Stock. (S. 29.)—Where any company, as above, has converted any portion of its capital into stock, and given notice thereof to Registrar, the provisions of the "Act" which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register (Cl. 37, 124 to 129), and the annual list of members (Cl. 39), shall show the amount of stock held by each member in the list, and the particulars relating to shares, as mentioned in the clauses just referred to.

INCREASE OF CAPITAL AND MEMBERS. (S. 34.)

43. Where a company has a capital divided into shares, whether converted into stock or not, notice of any increase beyond the registered capital, shall be given to the Registrar within fifteen days from the passing of the resolution authorising such increase.

Where a company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar within fifteen days from the time at which such increase has been resolved on, or has taken place, and the Registrar shall forthwith record the same.

Penalty £5 for every day during which the default continues.

INSPECTORS. (S. 58.)

44. Where inspectors are appointed to examine into the affairs of the company (*vide* Cl. 333 to 338), any officer or agent refusing to produce any necessary document or book, or to answer any question relating to the affairs of the company, shall incur a penalty of £5 for each offence.

LIQUIDATORS.

45. As to liquidators reporting dissolution of a company to the Registrar, and the penalties in default, see Cl. 271.

"MEMORANDUM" AND "ARTICLES" OF ASSOCIATION. (S. 19)

46. A copy of the Memorandum of Association, having annexed thereto the Articles of Association, (if any), shall be forwarded to every member at his request, on payment, of not exceeding 1s. for each copy.

Penalty in default, £1 for each offence.

BOARD MEETINGS.

Business that may be transacted at such Meetings—also as to the Ordinary Business and Powers of a Company generally as distinguished from those requiring the sanction of the Shareholders in General Meeting.

47. *Having enumerated those matters, the strict performance of which is made compulsory by the "Act," let us now consider the several powers which may be exercised by public companies at their option. They may be conveniently arranged under two heads.

1stly. Powers vested in directors *ex officio*, and which do not require the sanction of a general meeting of the company. And—

2ndly. Powers vested in members, which cannot be exercised *without* the sanction of a general meeting.

To the first of these we would at present direct the attention of the reader, and the second will be found fully explained under the title "General Meetings."—(Cl. 74.)

48. For the purpose of carrying out the above powers, or in other words, for the despatch of the ordinary business of the company, the directors usually meet together about once a week, but a director may at any time summon a meeting when necessary. Having determined the quorum that shall be deemed capable of entering upon such business (if not already fixed by the Regulations), the manager or secretary, as the case may be, lays before the meeting an agenda or list of matters requiring its attention. These are duly discussed and finally decided

* The reader will bear in mind, that in writing the following pages we have assumed that the company has adopted the form of Articles given in the first schedule to the "Act:" and that we have appended the numbers of the several clauses of such Articles so that reference may be made to them when desired. *See* "Explanation."

by votes; and when these are equal the chairman settles the question by a casting vote.

It is customary to elect one of the directors to fill the office of chairman for a certain period, and his name generally appears on the prospectus in that capacity; but if no such functionary be so elected, or if elected, be not present at the time for holding the meeting, the directors may choose any one of their number to fill the post.—(R. 67.)

49. The proceedings should be carefully entered by the secretary, in a book kept for the purpose, and particular care taken that all orders for payment of claims against the company are properly recorded, more especially as any promissory note or bill of exchange shall be deemed to have been made, accepted or indorsed, on behalf of the company, if so made, accepted or indorsed, in the name of the company, by any person acting under its authority.—(S. 47.) *See* also as to impress ing same with common seal, Cl. 32;—also as to Resolutions. Cl. 36.

50. The Articles of Association generally contain a proviso, empowering the directors to pay all expenses of getting up and registering the company, and to manage its business in accordance with its Regulations and the provisions contained in the "Act" in that behalf.

51. The directors may delegate any of their powers to committees, consisting of such members as they think fit; and any committee so formed shall conform to the regulations imposed on them by the directors, in respect of the matters intended for their decision.—(R. 68 to 70.)

The proceedings of such a committee are precisely the same as those of a meeting of directors, and the acts done by either will not be invalid by reason of some defect being subsequently discovered in the appointment of a director or person acting as such director, even although such flaw should amount to a disqualification. Neither will any regulation made by the company in general meeting invalidate any prior act of the directors, which would have been valid if such regulation had not been made.—(R. 71.)

52. A company may likewise by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf, in any place out of the United Kingdom; and matters so done, under the seal of such attorney, will have

the same effect as if they were done under the common seal of the company.—(S. 55.)*

53. In addition to the board meetings above mentioned, the directors of large companies generally so arrange, that two of their body shall attend daily, or as often as may be found necessary, for the purpose of signing documents and transacting other business requiring their immediate attention. All banking companies find this course absolutely necessary, in order that their bills, drafts, and other instruments, may be duly signed.

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* By an Act of the last session, entitled the "Companies Seals Act, 1864," further facilities are afforded to public companies carrying on business abroad. It does not repeal the provision of the "Act" (S. 55), referred to above. The following brief synopsis may be found useful.

"THE COMPANIES SEALS ACT, 1864."

13*th May*, 1864.

By Section 2. Any company, under the "Companies Act, 1862," whose objects require the transaction of business in foreign countries, may prepare an official seal for use in any place out of the United Kingdom in which such business is carried on; the same to be a fac-simile, or as nearly as practicable so, of the common seal of the company, except having on its face the name of every place, in and for which it is to be used, with power from time to time to break up and renew any official seal, and to vary the limits within which it is intended to be used.

By Section 3. Any company may, by any instrument, in writing, under its common seal, empower any agent or agents, specially appointed, or any legal agent, board, committee, manager, or commissioner, appointed under the Articles of Association, in any place out of the United Kingdom, where business of the company is carried on, to affix such official seal to any deed, contract, or other instrument, to which the company is made a party in such place, and no other order of the company or the board of directors shall be necessary to authorise such seal to be affixed to any deed, &c.

By Section 4. The power contained in the last section shall remain in force during the period, if any, limited in the instrument therein mentioned or otherwise, until notice of the revocation or determination of the power shall have been given to the parties dealing with the agent or persons claiming under them.

By Section 5. The person affixing such seal to any document shall, by writing, under his hand, on the document to which it is affixed, certify the date when, and the place where, the same was affixed; and any document to which any such seal shall have been so affixed within the district, or place inscribed on such seal shall bind the company, in the same way as if it had been duly sealed with its common seal.

The secretary should make short minutes of these proceedings, however unimportant they may seem, for if they accomplish no other object, they will at all events be a useful record of the company's business, and a written authority to refer to in case of dispute.

Calls on Shares. (R. 4 to 7.)

54. The regulations as to making calls seldom vary to any material extent, and are usually to the effect that the directors may exercise this power whenever they please in respect of all monies remaining unpaid on shares, provided they give the members at least twenty-one days notice thereof.

As the prospectus, however, generally contains some conditions as to the amount of calls, and the intervals at which they shall be made, it is of course necessary that the regulations should be in strict accordance with those conditions. If a Company limited by shares has not registered any articles of association, or inserted any such statements as to calls in the prospectus, the Directors are perfectly free to act as they feel disposed, or as best suits their convenience, and to make calls when, and as often as they think fit, until the shares become fully paid up, but subject to giving the above notice.

55. A call is deemed to have been made at the time when a resolution of the directors authorising the same was passed, and is due from the holder of a share on the day appointed by them for payment. In default of payment, when so due, interest at 5 per cent. per annum may be charged for the time intervening between the appointed day of payment and that on which it is made.

On the other hand, it is usually in the discretion of directors to allow a shareholder interest on any money paid in advance of calls, at such a rate as may be agreed upon.

Forfeiture of Shares. (R. 17 to 22.)

56. A member who fails to pay his call on the appointed day, is not only liable to be charged with interest, but he is also liable

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By Section 6. The above powers can only be exercised by such companies as are or shall be expressly authorised to exercise the same by their Articles of Association, or a special resolution passed according to the provisions of "The Companies Act, 1862," and shall be so exercised subject to any directions or restrictions in such Articles or special resolutions.

to have his shares forfeited to the company; and no doubt if the matter ended here, shareholders would not unfrequently regard such a measure with considerable satisfaction. But it does not—the members being still liable to pay all calls due on such shares at the time of forfeiture.

57. The conditions under which shares may be forfeited are always contained in the Articles of Association, and seldom vary from those comprised in the Regulations referred to at the head of these remarks. When a member fails to pay any call on the appointed day, he is served with a notice, naming a further day upon which he can pay the same, together with any interest and expenses that may have accrued by reason of his default. The notice should also state where payment is to be made (which must be at the registered office or some other place at which the calls of the company are usually payable), and it must further mention that in the event of non-payment on or before the day appointed, the shares affected by such calls will be liable to forfeiture. If this document is disregarded by the shareholder, the directors may at any time before payment of the calls, interest and expenses, pass a resolution declaring the shares forfeited; upon which they become the sole property of the company, and may be disposed of as it thinks fit.

As to purchasing forfeited shares, see Cl. 307.

Transfer of Shares. (R. 8 to 11.)

58. All shares or other interest of any member in a public company shall be deemed personal estate, and capable of being transferred in manner provided by its regulations, and each share shall be distinguished by its appropriate number.—(S. 22.)

59. One of the first conditions is, that all monies due on such shares shall first be paid, otherwise the directors may decline to register the transfer; but a shareholder is not bound to enquire as to the position of the transferree, and may assign his interest or liability to a pauper, provided the transaction is a perfectly *bonâ fide* one. Neither will a transfer made by a personal representative of a deceased shareholder be held invalid by reason of such representative not being a member when the transfer is executed.—(S. 24.)

60. The following is the form of transfer given in the first Schedule to the "Act," but a company may adopt whatever

form it pleases. It should be signed and sealed by both parties in the presence of one or more witnesses.

After being duly stamped according to the scale set forth below (Cl. 62), it should be left at the company's office for the approval of the directors and for registration, as until the latter takes place the transferror is still deemed to be the holder of the shares in question. A receipt is usually given for the deed on leaving same.

FORM OF INSTRUMENT OF TRANSFER.

61. "I, William Tomkins, of [*the transferror*], in consideration of the sum of £5 paid to me by Thomas Jones, of [*the transferree*], do hereby transfer to the said Thomas Jones the share [or shares], numbered 1034, standing in my name in the books of Company (Limited), to hold unto the said Thomas Jones, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said Thomas Jones, do hereby agree to take the said share [or shares], subject to the same conditions. As witness our hands the 1st day of January, 1865."

The Transfer Books are usually closed during the fourteen days preceding the Ordinary General Meeting, or for the time stated in the company's regulations.

STAMP DUTY ON TRANSFERS.

62.

Consideration. £	Stamp Duty. s.	d.
Not exceeding 25	2	6
„ 50	5	0
„ 75	7	6
„ 100	10	0

And so on at the rate of 10*s.* per cent.

POWER TO CLOSE REGISTER OF MEMBERS. (S. 33).

63. Any company under the "Act" may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situated, close the register of members for any time or times not exceeding in the whole thirty days in each year.

As to giving Inspection of the Register, see Cl. 37.

Notices, &c.

As to Service on Companies.

64. The "Act" provides that any summons, notice, order, or other document (writs excepted), may be served by leaving the same, or sending it through the post in a prepaid letter addressed to the company at its registered office. It must, however, be posted in time to admit of its being delivered in the ordinary course, within the prescribed time (if any) for the service thereof, and in case of proof it will only be necessary to show that it was properly directed, prepaid, and put into the post-office within such prescribed time.—(S. 62 and 63.)

Authentication of Notices. (S. 64.)

65. Any summons, notice, order, or proceeding, requiring authentication by the company, may be signed by any director, secretary, or other authorised officer. It need not be under the common seal, and it may be in writing, or in print, or partly in both.

Service of Notices on Members. (R. 95 to 97.)

66. The Regulations usually provide that a notice by a company upon a member may be served either personally, or by sending it through the post as above, addressed to such member at his registered place of abode.

If there are several holders of one share, it need only be sent to the member whose name appears first upon the register.

Any notice shall be deemed to have been served when the letter containing the same would be delivered in the ordinary course of post; and it shall be sufficient proof to show that such letter was properly addressed and put into the post office.

Arbitration.

67. In the event of there being any existing or future difference, question, or other matter whatsoever in dispute between two companies under the "Act" (S. 72 and 73), or between any company or person, the same may be referred to arbitration in accordance with the provisions of the "Railway Companies

Arbitration Act, 1859." And the companies (parties to the arbitration), may delegate to the person or persons to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled by the companies themselves, or by the directors or other managing body thereof.

We have, therefore, deemed it desirable to give a brief synopsis of the latter Act, and for convenience of reference have taken the several sections *seriatim*, placing opposite to each its respective number.

"RAILWAY COMPANIES ARBITRATION ACT, 1859" (22 and 23 Vict., cap. 59).

68. (i.) (Introductory).

(ii.) Any two companies by writing under common seal may agree to refer their differences to arbitration under this Act.

(iii.) The companies may (with each other's consent) alter, add to, or revoke agreement of reference.

(iv.) If such agreement not so revoked, it shall be binding, and may be carried into full effect.

(v.) Where the companies agree, the reference shall be made to a single arbitrator:

(vi.) But if they do not so agree, the reference shall be as follows:—

Where there are two companies—to two arbitrators, and

Where three or more companies—then to as many arbitrators as there are companies:

(vii.) Where there are two or more arbitrators, each company shall, by writing under seal, appoint one of them, and shall give notice thereof in writing to the other companies.

(viii.) Should any such company fail to appoint its arbitrator within fourteen days after being requested in writing so to do, then the Board of Trade may, on application of the other company, appoint one.

(ix.) Should one of the arbitrators die, or become incapable, or unfit, before the matter is determined, or for seven consecutive days fail to act, the company shall in writing, fill up the vacancy by another arbitrator;

(x.) Failing which, within fourteen days after being requested in writing by the other company so to do, the Board of Trade may fill up the vacancy.

(xi.) After such appointment, no company has power to revoke same without the consent in writing of the other companies (under seal).

(xii.) Before entering on the business, the arbitrators shall appoint in writing under their hands an impartial and qualified umpire:

(xiii.) Failing which, within seven days after reference made to them, Board of Trade may, on application, appoint one.

(xiv.) If umpire dies, or becomes incapable, or fails to act for seven consecutive days, the arbitrators shall fill up the vacancy;

(xv.) Failing which, within seven days after notice thereof, the Board of Trade may do so.

(xvi.) Newly appointed arbitrators to have the same powers as their predecessors.

(xvii.) If the arbitrators fail to make the award within the time agreed on, or in the absence of an agreement within thirty days after reference made to them, the matter shall stand referred to the umpire, or so much thereof as is undecided.

(xviii.) The arbitrators or umpire may call for the production of documents of evidence, and may examine witnesses on oath, and administer same; and in Scotland, may grant diligence for the recovery of the documents or evidence and for citing witnesses; and, on application to the Lord Ordinary, he may issue letters of supplement or other necessary writs in support of the diligence.

(xix.) Unless the companies otherwise agree, the arbitrators and umpire may proceed with reference as they think fit:

(xx.) And may even proceed in the absence of the companies, after giving the latter due notice.

(xxi.) They may make several awards, if they think fit, each one relating to a part of the matter referred to them, and the same shall be binding.

(xxii.) The award to bind all parties, if made within the proper time.

(xxiii.) The umpire (unless the companies otherwise agree)

may extend the time for making the award, by writing under his hand.

(xxiv.) No award shall be set aside for informality.

(xxv.) Unless the companies otherwise agree, everything in the award shall be complied with by the parties:

(xxvi.) And legal proceedings may be taken in the superior courts to enforce same.

(xxvii.) Unless the companies otherwise agree, the costs to be in the discretion of the arbitrators or umpire:—

(xxviii.) Or, if not otherwise agreed, and the award does not determine same, then the cost of attending the arbitration and the award shall be borne in equal shares, and in other respects the companies shall bear their own respective costs.

(xxix.) The submission (or agreement of reference) may be made a rule of court.

Legal Proceedings.

69. Where a limited company is plaintiff, or pursuer in any action, suit, or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by any credible testimony, that in the event of the defendant being successful, the assets of the company will be insufficient to pay his costs, require sufficient security to be given for such costs, and stay all proceedings until it is so given.—(S. 69.)

Action against a Member. (S. 70.)

70. In any action or suit brought by the company against any member to recover money due from him in his character of member, it shall not be necessary to set forth the special matter, but it shall be sufficient to allege that the defendant is a member, and indebted to the company in respect of a call made, or other monies due whereby an action or suit hath accrued to the company.

Evidence.

71. It will have been seen that the "Act" makes it compulsory for companies to cause minutes of all their proceedings to be duly entered in books kept for the purpose *(vide* Cl. 36), and a stronger reason could not be urged to prove the necessity of strict attention in this respect than to state that such minutes are admissible as evidence in all legal proceedings.—(S. 67.)

72. A copy of the report of any inspectors appointed as set forth in Cl. 333 to 341, authenticated by the seal of the company, will also be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.—(S. 61.)

COURT OF THE VICE-WARDEN OF THE STANNARIES.

73. Section 68 confers full jurisdiction and powers on this Court with respect to companies under the "Act" engaged in working mines within and subject to such jurisdiction.

GENERAL MEETINGS.

Proceedings at such Meetings generally—also as to certain Powers which cannot be exercised without the sanction of the Members, either in General Meeting or Extraordinary General Meeting.

74. Assuming, as before, that the Regulations prescribed by the "Act" (Table A), have not been altered or modified by the company, or (in case of a company limited by shares) if no Articles of Association have been registered, the first general meeting shall be held at such time and place as the directors may determine, but must be so held within six months from the date of its incorporation.—(R. 29.) As to subsequent meetings, it has already been stated (Cl. 40), that one at least shall be held annually. The time and place of holding the latter may be fixed by the company in general meeting, failing which they shall be held on the first Monday in February each year, at such place as the directors may determine.—(R. 30.) These are termed ordinary meetings, in contradistinction to those which members may, under certain conditions, require directors to convene, and which are called extraordinary. —(*See* Cl. 76.)

75. Every member must have at least seven days' notice of any ordinary general meeting (R. 35), the usual method being to transmit a printed copy of the company's balance sheet and directors' report, with such notice endorsed thereon. The latter should specify the place, day and hour, of such meeting; and if any business is intended to be transacted other than the adoption of the balance sheet and report, or the sanctioning a

dividend, it must state clearly the nature of such special business. All matters done at ordinary meetings, except those just mentioned, together with the whole of the business transacted at extraordinary meetings, are deemed "special," and require to be set forth in the notice.—(R. 36.)

76. The directors may, whenever they think fit, and shall, upon a requisition made in writing, by not less than one-fifth in number of the members, convene an extraordinary general meeting.—(R. 32.) The requisition must express the object of the proposed meeting, and must be left at the registered office of the company.—(R. 33.) If the directors fail to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any members of the required number, may themselves convene such extraordinary meeting.—(R. 34.) *See* also Cl. 78.

77. The chairman of the board of directors (if any) shall preside at every general meeting of the company; but if he is not present within fifteen minutes after the appointed time of the meeting, the members present shall choose one of their number to fill the post.—(R. 39 and 40.)

No business shall be transacted at any general meeting except the declaration of a dividend, unless a quorum of members is present when it proceeds to business.—(R. 37.) If the persons who have taken shares in a company do not exceed ten in number, the quorum shall be five, with the addition of one for every five members above that number up to fifty, and one for every ten after fifty; but in no case shall the quorum exceed twenty.—(R. 37.)

78. If the meeting has been convened upon the *requisition of members*, and the above quorum is not present within an hour from the appointed time, it shall be dissolved; but in any other case it shall stand adjourned to the same day in the following week, at the same time and place; but should the necessary quorum be still absent, then the meeting shall be adjourned *sine die*.—(R. 38.)

79. The chairman may also, with the consent of any meeting, adjourn the same from time to time and place to place; but no fresh business shall be transacted at such adjournment.—(R. 41.)

80. It has already been stated (Cl. 36), that the "Act" makes it compulsory that Minutes of all resolutions and proceedings of a company shall be entered in a book kept for the purpose. The plan generally adopted, and one which is found the most

convenient, is to enter them first in a rough book, and afterwards have them copied into the fair minute book for the signature of the chairman. It is not absolutely necessary that he should sign them at the meeting in question, but it is as well to have it done as soon after as possible. Many contingencies might arise to render this course expedient, although the requirements of the "Act" would be fully complied with if they were signed at the next ensuing meeting.—(S. 67.)

81. Before proceeding to enumerate those matters which may be done by a company in general meeting, but some of which require a special resolution, it will be necessary to explain that such "special resolution" (S. 51) must be passed by a majority of not less than three-fourths of the members present, personally or by proxy, at a general meeting, and who are entitled to vote. That notice of the intended proposal of such special resolution must have first been given, in accordance with the regulations of the company;—that the same must be confirmed by a majority of such members as may be present in person or by proxy at a subsequent general meeting (of which notice has been duly given), and held at an interval of not less than fourteen days, and not more than one month from the date of the meeting at which it was passed;—that unless a poll is demanded by at least five members, a declaration of the chairman that such resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes for or against; and that in computing a majority, when poll demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the company.

82. If there are no such regulations (S. 52), each member shall be deemed to have one vote; and in default of regulations as to summoning meeting, it shall be deemed to have been duly summoned if seven days' notice, in writing, has been served on every member.

83. In default of any regulations as to the number of persons competent to summon such meeting, five shall be deemed sufficient; and if no regulations as to chairman, the members present may elect one of their number to preside.

As to sending notice of special resolutions to Registrar, see Cl. 41.

Votes of Members.

84. Every member shall have one vote for every share up to ten; he shall also have an additional vote for every five shares beyond the first ten up to one hundred, and one for every ten shares beyond one hundred.—(R. 44.)

85. No member will be entitled to vote unless he has paid all calls due from him; neither will any member be allowed to vote in respect of any shares acquired by transfer, at any meeting held after the expiration of three months from the date of the company's registration, unless he has been possessed of such shares for at least three months prior to the date of the meeting at which he proposes to vote.—(R. 47.)

86. If one or more persons are *jointly* entitled to a share or shares, the member whose name stands first on the register, and no other, shall be entitled to vote in respect thereof.—(R. 46.)

87. If any member is a lunatic, or idiot, he may vote by his committee, Curator bonis, or other legal Curator.

88. Votes may be given either personally or by proxy, but the latter must be a member of the company.—(R. 45.)

The instrument appointing a proxy shall be in writing, signed by the appointor, (or, in case of a corporation, under its common seal), and shall be attested by one or more witnesses.—(R. 49.)

89. After being impressed with a 6d. stamp, it must be deposited at the registered office of the company, not less than 72 hours before the appointed time of meeting, and shall not be valid after the expiration of twelve months from the date of its execution. (R. 50.) It is, moreover, only available for one meeting, and any adjournment of it. A vote given under an *unstamped* proxy will be absolutely null and void, and the maker of the proxy, as well as the proxy himself, will be subject to a penalty of £50.

90. The form is as follows:—(R. 51.)

Company Limited.

"I, Richard Roe, of Bromley, in the County of Kent, being a member of the Company Limited, and entitled to one vote, (or more, as the case may be,) hereby appoint Job Doe, of Bromley, as my proxy, to vote for me and on my behalf at the Ordinary (or Extraordinary) General Meeting of the Company, to be held on the first day of February, 1865, and

at any adjournment thereof, (or at any meeting of the company that may be held in the year 1865.)

"As witness my hand, this twenty-third day of January, 1865.

RICHARD ROE."

Signed by the said Richard Roe in the presence of

JOHN JONES.

Bromley.

Solicitor.

91. At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman, that a resolution has been carried, and an entry to that effect in the Minute Book shall be sufficient evidence of the fact, without proof of the number and proportion of the votes recorded in favour of, or against such resolution.—(R. 42.)

92. If a poll is so demanded, it shall be taken as the chairman directs, and the result shall be deemed to be a resolution of the company in general meeting. In the case of an equality of votes, the chairman shall be entitled to a second or casting vote.—(R. 43.)

DIRECTORS.

93. At the first ordinary meeting, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one third shall retire from office.—(R. 58.)

94. The persons who shall thus retire during the first and second years, after the first ordinary meeting, shall, unless the directors agree amongst themselves, be determined by ballot; but in every subsequent year, the retiring number shall comprise those who have been longest in office.—(R. 59.)

95. The company shall, at such meetings, fill up these vacancies, and may elect all or any of the retiring directors if it thinks fit.—(R. 60 and 61.)

96. In default, however, of the vacancies so arising, being filled up, the meeting shall stand adjourned till the same day in the following week, at the same time and place, and if not then filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time, until the vacancies are supplied.—(R. 62.)

97. Any casual vacancy in the Board may be filled up by the directors themselves, but the director so chosen shall only retain his office so long as his predecessor would have held it, if the vacancy had not occurred.—(R. 64.)

98. A company may, from time to time, increase or reduce the number of its directors, and may likewise determine in what rotation they shall retire from office.—(R. 63.)

99. It may also, by a special resolution, remove a director before the expiration of his period of office, and may, by ordinary resolution, appoint another person in his stead, but the latter shall only hold office so long as the director removed would have held it, in the absence of such removal.—(R. 65.) *See* also Cl. 416 to 420.

Balance Sheet and Accounts.

100. Once, at least, in every year, the directors shall lay before the company, in general meeting, a statement of the income and expenditure for the past year, made up to a date not more than three months prior to the meeting.—(R. 79 to 81.) *See* form and remarks, Cl. 168 to 180.

101. They shall also submit to such meeting a balance sheet, containing a summary of the property and liabilities of the company, duly audited, and with the auditor's report appended thereto. (R. 94.) It is a printed copy of the latter which has already been referred to as usually accompanying the notice of meeting sent to shareholders.—(R. 82.)

102. The balance sheet must be read, together with the report of the directors, at the ordinary meeting, and when adopted, a minute of the resolution should be entered in the book kept for the purpose.—(R. 94.)

For instructions as to preparing these accounts, see Cl. 166 *et seq.*

Auditors.

103. The first auditors are generally appointed (and their remuneration fixed) by the directors, and subsequent auditors (and their remuneration fixed) by the company, in general meeting, each year.—(R. 84, 87 and 88.)

Should any casual vacancy occur in the office of auditor, the directors shall forthwith call an extraordinary general meeting, for the purpose of supplying the same, the retiring auditor, however, being eligible for re-election.—(R. 89 and 90.)

If one auditor only is appointed, all the provisions contained in the Articles of Association, relating to auditors, shall apply to him.—(R. 85.)

If no election of auditors is made, the Board of Trade may, on the application of not less than five members of the company, appoint an auditor for the current year, and fix the amount of his remuneration.—(R. 91.)

Qualification of Auditors.

104. The auditors may be members of the company; but no person is eligible as an auditor who is otherwise interested in any transaction of the Company, and no director or other officer thereof is eligible during his continuance in office.—(R. 86.)

Vide Cl. 181 to 185 as to the duties of auditors.

Dividends.

105. Directors may, with the sanction of the company in general meeting, declare a dividend, if the profits arising out of the business of the company warrant such a step, but no part of the capital must be devoted to that purpose.—(R. 72 and 73.)

106. They may also set aside out of the profits and invest such sum as they think proper to form a reserved fund for meeting contingencies, equalising dividends, or repairing or maintaining the works connected with the business of the company.—(R. 74.)

107. Notice of any dividend must be given to the members, and if it remains unclaimed for three years after having been declared, it may be forfeited by the directors for the benefit of the company; and no dividend shall bear interest as against the company.—(R. 76 and 77.)

108. The directors may deduct from the dividend anything owing by a member on account of calls or otherwise, and where there are several registered holders of a share the receipt of any one of them shall be effectual.—(R. 75.)

Power to alter Memorandum of Association.

I.—*As to change of name.* (S. 12 and 13.)

109. Any company, with the sanction of a special resolution and the approval of the Board of Trade, testified in writing under

the hand of one of its secretaries or assistant secretaries, may change its name, and the Registrar shall enter such new name on the register in the place of the former one, and issue a certificate of incorporation altered according to circumstances.

110. No alteration shall affect the rights or obligations of the company, or render defective any legal proceedings which may be continued or commenced against it by its new name.

See also Cl. 33.

II.—*As to Increase or Consolidation of Capital, Conversion into Stock, &c.* (S. 12.)

111. Any company limited by shares may so far modify its Memorandum of Association, if authorised to do so by its regulations as originally framed or as altered by special resolution (*vide* Cl. 81 to 83,) as to increase its capital by the issue of new shares of such amount as it may think expedient, or to consolidate and divide its capital into shares of larger amount, or to convert its paid up shares into stock.

112. No other alterations except those set forth in the two last clauses shall be made by any company in its Memorandum of Association.

Vide Cl. 42, as to notice to Registrar, &c., and as to how members affected, see Cl. 126.

POWER TO ALTER ARTICLES OF ASSOCIATION. (S. 50.)

113. Subject to the provisions of the "Act" and to the conditions contained in the Memorandum of Association, any company by special resolution may alter all or any of its regulations contained in the Articles of Association, or in the Table marked A, in the first schedule of the "Act," where the latter is applicable to the company, or may make new regulations to the exclusion of, or in addition to, all or any of the existing regulations of the company; and any regulations so made shall be as valid as if they had been originally contained in the Articles of Association, and subject in like manner to be altered or modified by any subsequent special resolution.

POWER TO APPOINT INSPECTORS. (S. 60.)

114. Any company may, by special resolution, appoint inspectors for the purpose of examining into the affairs of the company.

Inspectors so appointed shall have the same powers and perform the same duties as if they had been appointed by the Board of Trade, (*vide* Cl. 333, *et seq.*,) the only difference being that instead of reporting the result to the latter, they shall do so to such persons and in such manner as the company in general meeting shall direct; and officers and agents refusing to produce any book or document when required, or to answer any question, are subject to the same penalties as they would have incurred if the Inspector had been appointed by the Board of Trade.

See Cl. 44, as to penalty.

Power to voluntarily wind up a Company.

115. It is merely necessary to state here that this is one of the powers which can only be exercised in general meeting, and for details to refer the reader to Part IV, which is entirely devoted to the consideration of winding-up.

PART III.

BOOKS AND ACCOUNTS.

116. THERE can be nothing more essential to the proper management of a public company than careful and systematic book-keeping, and yet auditors well know that in the majority of cases that come before them, this most important branch of the administration is in a great measure neglected. At the outset the stationer is applied to, and he hands to the secretary of the company a stereotyped list of books, usually containing twice as many as are really necessary. These are often carelessly ordered, without first considering their utility, and when it is too late the discovery is made that a large number of them are entirely useless, and the remainder but ill-adapted to the requirements of the company. The consequence is that much inconvenience ensues, and that the books in time, present little more than an entangled mass of confusion, which the auditor has to unravel as best he can. Instead, therefore, of merely comparing the balance sheet and accounts with the books and vouchers, which is the extent of his duty, it is not unfrequently found necessary that he should re-organise and post up the books afresh, and he thus becomes, to all intents and purposes, the book-keeper instead of the auditor of the company.

117. It is a somewhat anomalous fact that merchants' books are, as a rule, far better kept than those of public companies, although the officers of the latter almost invariably receive much higher salaries than are given to clerks in commercial counting-houses.

And when we consider that private traders are not amenable to anybody unless they become bankrupts, and then only to their creditors, while on the other hand companies are responsible to the public for every fraction of their expenditure, we

cannot but marvel that the subject has hitherto received so little attention.

118. If directors would only exercise ordinary precaution in selecting their managers, secretaries, and clerks, the evil would soon be remedied. Let it be a *sine qua non* that the candidates for such appointments shall possess a thorough practical knowledge of the principles of book-keeping and accounts—that they shall be acquainted with the provisions of the "Act" under which the company is formed, and the Articles of Association by which it is regulated—and that they shall, moreover, be systematic men of business. Let but these qualifications be indispensable to the election of its officers, and a company will have little cause to fear when called upon to give an account of its stewardship to the members, or, if unsuccessful, to go through the more trying ordeal of satisfying the Court of Chancery, and a host of unfavourable creditors.

119. Before entering upon the question of books, the author would strongly recommend that all preliminary documents should be properly arranged and carefully pasted in a guard book, or put away in a box kept for the purpose. The forms of application for shares and the letters accepting the same when allotted, should be placed in such order as will be most convenient for the auditor on comparing them with the deposit and allotment list already referred to in Cl. 7. No money should be paid, nor, indeed, anything done that affects the interest of the shareholders, without vouchers being taken or minutes thereof recorded, in such a manner as will satisfy the most scrupulous and captious member or creditor. Not an invoice or receipt should be mislaid or lost, but should be either arranged in guard books and numbered, (see Cl. 154,) or endorsed as may be found best for facility of reference. Strict attention to these rules will fully repay any trouble incurred in carrying them out, and will at the same time reflect credit upon all persons engaged in the management. As to preparing balance sheet and accounts, and the duties of auditors, see Cl. 166 to 185.

120. With regard to the books required by public companies it has been deemed advisable to give the stationer's list *in extenso*, and to place opposite to each a number referring to the clause wherein its utility is considered. This list may be divided into two distinct sets, the first of which comprises all those books which are peculiar to and required by public companies

alone, and which may be said to contain all matters relating to shares or things done by virtue of their being incorporated bodies, or public traders, in contradistinction to merchants or private traders. The second set merely comprises such books as are common to the commercial world in general, and simply record the active operations of the company as a trader, exactly in the same manner as do the books of an ordinary merchant or shopkeeper.

121. The reader will, therefore, now easily understand the following classification.

First Set—or books relating to shares, proceedings at board and other meetings, &c.

Application and Allotment Book. Cl. 7.
Register of Members. Cl. 124 to 129.
Numerical Register of Shares. Cl. 130.
Certificate Book. Cl. 131 and 132.
Shareholders' Stock or Share Ledger. Cl. 133 to 135.
Register of Transfers. Cl. 136 to 138.
Shareholders' Address Book. Cl. 139.
Shareholders' Rough Minute Book. } Cl. 140.
Shareholders' Fair Ditto. }
Shareholders' Dividend Account Book. Cl. 141.
Annual List of Shareholders. Cl. 142.
Register of Proxies. Cl. 143.
Directors' Rough Minute Book. } Cl. 144.
Directors' Fair Ditto. }
Directors' Attendance Book. Cl. 145.
Directors' Agenda Book. Cl. 146.
Directors' Despatch Book. Cl. 147.
Directors' Letter Book. Cl. 148.
Register of Bonds and Mortgages. Cl. 149.
Register of Transfer of ditto. Cl. 150.
Register of Directors. Cl. 151.

122. *Second Set,*—or books relating to a Company's operations as a trader.

Preliminary Expenses Book. Cl. 153.
Cash Book. Cl. 154.
Petty Cash Book. Cl. 155.
Postage and Delivery Book. Cl. 156.
Waste Book. Cl. 157.
Journal. Cl. 158.

Ledger. Cl. 159.
Banking Ditto. Cl. 160.
Rough Banker's Book. Cl. 161.
Wages Ledger. Cl. 162.
Letter Book. Cl. 163.

123. In addition to the above, a company will, of course, require such special books as belong to the particular branch of commerce in which it may be engaged, as, for example, a mining or colliery company,—an insurance company,—a banking company, &c., &c. To treat of these, in detail, would occupy the whole of a much larger volume than the present one, and, indeed, it does not come within the province of a work of this nature to do so; besides, nearly every company has some specialty in this respect, and must, therefore, order such books as are most suitable to its requirements. The list, above-mentioned, comprises books which are more or less applicable to *all* companies, and it is the consideration of such general books that we have to do with, and to which the following clauses exclusively relate. Except in a very few instances, companies are left entirely unfettered as to what forms of books they shall adopt, and unless otherwise stated, the remarks appended to each must only be regarded in the light of suggestions, which may be acted upon at the discretion of the reader, or not, as he thinks fit.

Register of Members.

124. The "Act" provides, under penalty, (*vide* Cl. 37) that every company shall cause to be kept, *in one or more books*, a register of its members, in which shall be contained certain information. For this purpose a book is generally used, bearing that title, but it is not absolutely necessary, in order to comply with the statute, that this book should be entirely devoted to fulfilling that particular requirement. A share ledger, (Cl. 133 to 135) if properly arranged, will answer the purpose admirably, and thus combine two very important objects in one book.

125. If, however, a company prefers having them kept separately, the register of members must contain the following particulars.

1. The names, addresses and occupations (if any) of the members.
2. If capital divided into shares, a statement of the shares held by each member, distinguishing each share by its number.

3. The amount paid, or agreed to be considered as paid, on the shares of each member.
4. The date at which the name of any person was entered in the register as a member.
5. The date at which any person ceased to be a member.

The latter dates should be carefully entered at the time the events they refer to actually occur.

126. Should any of the company's capital be converted into stock, (Cl. 42) the register must show the amount of such stock held by each member, instead of the amount and particulars of shares.

127. No notice of any trust expressed, implied or constructive, shall be entered on the register, or be receivable by the Registrar, in case of companies, under the "Act," registered in *England* or *Ireland*.—(S. 30.)

128. Any company may, upon certain conditions, close the register of members, for particulars of which see Cl. 63.

129. As to right of members and others to inspect and have copy of any part of the register, see Cl. 37.

Numerical Register of Shares.

130. This book, as its name implies, is simply a numerical list of the shares allotted by the directors, arranged consecutively from No. 1 to the end. It is extremely useful to auditors in checking, and shows, at a glance, whether any numbers are vacant, or any gap exists in the allotment of the shares. As the preparation of such a list involves so little trouble, no company should be without it.

The following form will be found to answer the purpose very well, and is much used.

Distinctive Numbers of Shares.	Original Proprietor's Name.	Address.	Description.	Transfer Numbers.					

This book is not unfrequently combined with the register of members, in which case columns are added for the requirements set forth in Cl. 125, but such a course is not recommended. The principal use of the numerical register is for the purpose of auditing, as stated above; but its utility may be greatly increased by entering the transfer numbers of each share, whenever it changes ownership, by which means it may always be traced, and the last number will, of course, afford a ready clue to the present holder.

Certificate Book.

131. It is almost needless to state that this book contains the certificates which are torn out and given to members, specifying the numbers and particulars of the share or shares held by them, and is provided with counterfoils, on which corresponding particulars are entered in precisely the same way as a cheque book. The certificate is, so to speak, the member's title deed to his interest in the Company, and the "Act" provides, that it shall be *primâ facie* evidence of such interest. It must be under the company's common seal, and be impressed with a 1d. stamp. It is, also, usually signed by two or more directors, and countersigned by the secretary. Sometimes, columns are printed on the back of the certificate, headed "Deposit," "Allotment," "1st Call," &c., for the purpose of endorsing the amount paid-up on the shares, but the utility of this plan is very questionable. If, however, the regulations of the company render it necessary to endorse the amount paid-up, (see next Clause,) it is submitted that only two columns are required, viz:—one headed "Date," and the other, "Total amount paid-up," without particularising the sums paid as deposit,—allotment,—calls, &c.

132. The regulations generally provide, that a member, on payment of one shilling, or less, if prescribed by company in general meeting, shall be entitled to a certificate, specifying the share or shares held by him, and the amount paid up thereon,—also to renew any worn out or lost certificate on the same terms.

The ordinary form is so well known to stationers, that it is unnecessary to give it here; and companies generally have some peculiarity for the purpose of distinction.

SHAREHOLDERS STOCK OR SHARE LEDGER.

133. This is one of the most important share books kept by public companies. It is in constant requirement, and should record the particulars of the allotment of all the company's shares and, from time to time, every transfer thereof. The greatest care should, therefore, be exercised in framing it, and we have, for this reason, drawn the form, given at page 61, which we think will combine usefulness with practicability. In the remarks appended to the "Register of Members," (Cl. 124.) we have already hinted that a share ledger may be so arranged as to render a separate book for the former superfluous, and we are convinced that our opinion will be endorsed by all who aim at securing the greatest amount of utility with the smallest possible expenditure of labour. There are some who object to the introduction of cash columns in a share ledger, and, indeed, a great majority of such books are made without them, but we have never yet heard a satisfactory argument in favour of their exclusion. On the other hand, it would not be difficult to show, by a simple illustration, substantial reasons for their adoption. Suppose, for instance, a company, having a share ledger without such columns, makes a call, it will, in the ordinary course of business, do the following things, viz:—

1. Copy in the call book the names, addresses and occupations of all the shareholders,—the particulars of shares held by them, and the amount due from each. This process will have to be gone through for every call; inasmuch as many of the shares may have changed hands by the time a subsequent call is made.
2. In addition to the above, it not unfrequently happens that separate accounts are opened in the cash ledger, and the respective amounts debited to each individual shareholder, the total being credited in capital account.
3. When the calls are paid, assuming that accounts have been so opened, each shareholder is credited in the ledger with the amount received from him,—the call book is marked off,—and the "Register of Members" must also be entered up; thus making three entries for every item. But even assuming that the com-

pany has wisely omitted to open accounts with each shareholder, and merely carried the totals to a general or "call" account, there would, at least, be two entries for each transaction, viz:—one in the call book, and one in the register of members.

134. If the reader is acquainted with book-keeping, he will easily appreciate the great labour required to carry out the plan we have just described, and will, we think, acknowledge that the following system will accomplish the purpose more effectually, and with less than half the trouble, and will, moreover, render unnecessary both the call book and the register of members.

Assuming, then, that our form is adopted, the company, on making a call, would simply have to credit "capital" account in the cash ledger with the total amount of the call, ascertained by multiplying the number of shares allotted by the amount of such call, and debit the call account (an account being opened for each call), with the same sum.

Then, turn to the accounts already opened in the share ledger, and mark the sum due from each in the column for that purpose, filling up the requisite form of notice to the members at the same time.

As the calls are paid from time to time, they are marked off in the credit columns of the share ledger, and the latter then forms a complete register of members, as required by the "Act,"—as well as a perfect share ledger,—and obviates the necessity of a "call" book.

In the cash ledger, the sums so received for calls, will, of course, be debited to "cash," and credited in the "call" account, the difference between the two sides of which will show the exact amount of arrears on the call in question. When a reasonable time has elapsed, a list of the defaulters may be extracted from the share ledger, the total amount of which should agree with the balance at the debit of the account just mentioned. This may be laid before the directors, in order that they may determine the course to be adopted, the usual one being, to issue the necessary notice prior to the forfeiture of the shares, in case of non-compliance with its requirements.

135. In ordering the share ledger, regard should be had both to the number of shareholders and the number of shares allotted, as, although some companies require three or four huge books, each devoted to certain proportions of the alphabet, there are others which find that one book, of moderate dimensions, is amply sufficient.

Left hand side.] SHARE LEDGER AND REGISTER OF MEMBERS. [*Copyright*

Date of Entry in Register.		NAME.	ADDRESS.	OCCUPATION.	Allotment or Transfer Number.	No. of Shares required.	Distinctive numbers of Shares.	
							From	To
1864 Decr.	4	James Hill	Lord Street, Liverpool	Engineer.	A 117	10	31	40

Right hand side] SHARE LEDGER AND REGISTER OF MEMBERS.

PARTICULARS OF SHARES TRANSFERRED.						Balance of Shares.	Dr. CASH ACCOUNT. Cr.											
Date of Transfer.		Transfer No.	No. of Shares transferred.	Distinctive Nos. of Shares.		Ledger Folio of Transferee.	Date when due.			Amount.			Date when paid.			Cash Book Folio	Amount.		
				From	To														
1865 Feby.	15	320	5	31	35	40	5	1864 Decr.	4	To Deposit	10	„	„	1864 Decr.	1	Bycash	29	10	„	„
										Allotment	20	„	„		5	„ „	29	20	„	„
								1865 Jany.	30	First Call	30	„	„	1865 Feby.	10	„ „	41	30	„	„

We would, in all cases, strongly recommend the use of a loose index, and, in many instances, it will be found absolutely necessary. It may be quite possible to arrange the first shareholders alphabetically, but, as transfers take place, it will be found extremely difficult, if not impossible, to adhere to such an arrangement.

Should the company determine to convert its shares into "stock," the share ledger should be closed, and the accounts transferred to a proper stock ledger, as it would only cause endless confusion to attempt to keep them in the former.

As to power to close the register of members, see Cl. 63.

Also, as to giving inspection of the same, see Cl. 37.

See also register of members, Cl. 124.

Register of Transfers.

136. This book may be placed next in importance to the share ledger, and, as in the case of the latter, the company is left unfettered as to what form it shall adopt. Its name implies its use, and it is therefore almost unnecessary to state, that the particulars of all transfers of shares are recorded therein before being finally disposed of in the ledger.

137. We have prepared a form which we think will meet every requirement; and as the headings of the several columns are sufficiently explanatory, we will simply refer the reader to them for any information he may require.—(*See* next page.)

138. When the register of members is closed, as described in Cl. 63, the register of transfers is of course also closed; and the company can then make up its statements and accounts to a given time without interruption.

As to transfer of shares, see Cl. 58 to 62.

Left hand side.] REGISTER OF TRANSFERS. [*Copyright.*

No. of Transfer.	Date when received.	From whom received.	Date of Transfer Deed.	FROM WHOM TRANSFERRED.			Folio of Share Ledger.	No. of Shares. transferred.	Distinctive Nos. of Shares.	
				Name.	Address.	Description.			From	To.

Right hand side.] REGISTER OF TRANSFERS.

Date when Registered.	TO WHOM TRANSFERRED.			Folio of Share Ledger.	Considera-tion.	Transfer Fees.	Initials of Directors approving same.	Remarks.
	Name.	Address.	Description.					

Shareholder's Address Book.

139. This book is quite unnecessary, as the required information can always be obtained in the first place from the allotment list, and afterwards from the register of members (if any), the stock or share ledger, and other books.

Shareholder's Minute Books.

140. This book is compulsory, and it is usual to have a rough and a fair minute book for the purpose of entering the proceedings at the shareholder's meetings.

The first of these need not be ruled, and simply consists of a quantity of plain paper bound according to taste. The second should be ruled with faint lines and the ordinary margin left. Foolscap size of paper will be found the most convenient for this purpose, and care should be taken to have the book well bound, as it is really the permanent record of the company's transactions in general meeting.

As it may be called for in evidence, all entries made therein should be written in a plain and legible hand, and should, moreover, describe clearly the several matters to which they refer.

Vide Cl. 80 as to the *modus operandi*.

Shareholder's Dividend Account Book.

141. This book need not be procured until it is ascertained that the company is in a position to declare a dividend, as, if the undertaking should prove unsuccessful, it will, of course, be useless. There is no objection to the form commonly supplied by stationers, and its use is too evident to require any explanation here.

Annual List of Shareholders.

142. It has already been stated that it is compulsory to furnish the Registrar with a list of the members of a company, and other particulars, annually (Cl. 39); and that the "Act" further provides that such list and particulars shall be copied in a separate part of the register. The latter portion of this requirement is seldom complied with, and many companies

prefer having a separate book ruled in accordance with the form given at Cl. 39, for the purpose of copying in such annual lists. A more convenient method, however, is to have them made out on loose sheets of foolscap, and after transmitting a copy to the Registrar, have them attached to the balance sheet and accounts, to be laid before the company in general meeting. If the company is a large one, and the transfers have been numerous, it will be found almost impossible to furnish a list of those persons who have ceased to be members during the preceding year, and in such a case the author would recommend that an application be made to the Registrar to dispense with this really useless expenditure of time and trouble. To supply the particulars of a year's transfers would, in many instances, require a tolerably large volume, and needlessly employ a clerk the greater portion of his time.

Register of Proxies.

143. For the purpose of this book it will be found quite sufficient if the instruments appointing proxies are pasted in a guard book in the same way as invoices are usually arranged. It should be furnished with an index containing the following particulars:—

1. The name of the member appointing a proxy.
2. The name of proxy so appointed, and
3. The folio.

As to appointing proxies and the form of instrument see Cl. 88 to 90.

Directors' Rough and Fair Minute Books.

144. *See* remarks on shareholders' minute books, Cl. 140, which also apply to those of the directors.

See also as to minutes at board meetings, Cl. 49.

Directors' Attendance Book.

145. This book is quite unnecessary. Information as to the attendance of the directors should appear on the minutes in the books above referred to. If, however, fixed fees are awarded for each particular attendance at the board, it may be found useful to open a sort of account with each director in a book of this description, and from time to time enter the

date of his attendance, by which means it may be ascertained at a glance what sum is due to him at the end of the year. Should a director call casually, his name may be entered in the "Call" book, which is generally to be found in every well-regulated office.

DIRECTORS' AGENDA BOOK.

146. It is not unfrequently the case that a book for this purpose is dispensed with altogether, the heads of the several matters intended to be brought before a meeting being written on a scrap of paper and handed to the chairman, after which it is destroyed. It is, however, recommended that a small book be procured for the purpose, in order that the secretary may be able to make memoranda therein when any incidents occur which require to be submitted to the directors at their ensuing meeting. *See* also Cl. 48.

DIRECTORS' DESPATCH BOOK.

147. Not required.

DIRECTORS' LETTER BOOK.

148. In the majority of cases it will be found unnecessary to have a separate letter book for the directors, but if there is likely to be any correspondence which it is not thought desirable that the clerks should see, such a book may be procured.

REGISTER OF BONDS AND MORTGAGES.

149. This is one of the few books, the keeping of which is made compulsory by the "Act" (S. 43). It is also one which, above all others, is the least likely to be called into requisition, and it should not therefore be procured until there is a probability of its being wanted. The words of the "Act" are to the effect, that every *limited* company shall keep a register of all mortgages and charges *specifically affecting the property of the company*, and shall enter in such register in respect of each mortgage or charge:—

1. A short description of the property so mortgaged or charged;

2. The amount of charge created, and
3. The names of the mortgagees or persons entitled to such charge.

As to penalty for not keeping same, or for refusing inspection thereof to creditors or members of the company, *vide* Cl. 38.

REGISTER OF TRANSFERS OF BONDS AND MORTGAGES.

150. This is even more useless than the last one, and may be dispensed with by simply entering the names of the new mortgagees on the register and stating the fact, that the charge has been so transferred, or by treating the matter as an entirely new transaction, and placing it on record accordingly.

REGISTER OF DIRECTORS. (S. 45).

151. It has already been stated that every company *not having a capital divided into shares*, must keep at its registered office a register of its directors containing,

The names, addresses, and occupation of its directors or managers.

As to penalty and copy of register to be sent to the Registrar, *vide* Cl. 35.

152. Before proceeding to describe the books comprised in the second set it may be mentioned that the regulations appended to the "Joint Stock Companies Act, 1856," provided that public companies should keep their books by double entry. Unfortunately, however, Table A, furnished in the new "Act," contains no such restriction, and it is therefore now left entirely to the option of a public company to adopt what system it may think fit, although at the same time it is scarcely possible to comply with the requirements of the "Act" as to accounts, &c., unless the books are kept by double entry. Whether this important omission was intended by the framers of the "Act" or inadvertently escaped their notice, does not appear, but the consequence has been that many of the smaller companies have used a wretched system of single entry, which, instead of showing clearly the state of their affairs, has only tended to plunge them into the greatest confusion. The author cannot, therefore, too strongly set forth the necessity of adopting the well-tried system of double

entry, and does not hesitate to say that it is the only method by which a company can satisfactorily keep its books.

Preliminary Expenses Book.

153. In order to obviate a needless multiplicity of books, these expenses should be entered in the ordinary cash book, taking care, however, to specify that they are preliminary, or, if necessary, to rule a separate column for the purpose of keeping them distinct. When a company is introduced by a financial association a stated sum is generally fixed, and such sum is very frequently the only item appearing in the preliminary expenses account. This is "written off" in a certain number of years and there the matter ends. But although this mode of procedure is sanctioned by custom it is not strictly correct, for there are many other expenses, in addition to the above, which properly belong to preliminary expenditure. Among these may be mentioned the stationer's bill for books, common seal, &c., together with many other requisites for carrying on business, which cannot be regarded as assets or things capable of being converted into money in the event of the company being wound up. As these will probably last for several years it would be obviously unfair to existing shareholders to deduct the total cost thereof from the first year's profits, and to do so would, moreover, give a very incorrect view of the company's trading during that period. A much more expedient and equitable plan, therefore, is to merely debit profit and loss account with a fixed proportion of the promotion money, together with such an amount as may be deemed adequate to meet the expenditure of the current year, and so on from time to time until the preliminary expenses are disposed of.

Cash Book.

154. This book calls for no other remark than that the ordinary commercial form is suitable to public companies, and that in writing it up care should be taken to state the fullest particulars, together with a number referring to any document or voucher that will testify as to the accuracy of its contents.

Petty Cash Book.

155. This will be found useful. It should be balanced every month and journalised.

The receipts and documents relating to it should also be carefully arranged, so that the auditor may have no difficulty in vouching the several items charged therein.

Postage and Delivery Book.

156. The postage book is of more importance to public companies than would at first sight appear. If properly framed it can always be produced for the purpose of proving the service of notices, as set forth in Cl. 66, and thus render a separate book unnecessary. It will also be found extremely useful in case of dispute to prove the posting or delivery of letters and other documents. We have prepared the following form which we think will be found to meet the above requirements.

POSTAGE AND DELIVERY BOOK. *(Copyright.)*

Date.	Superscription.			Time of Posting.	Time of Delivery.	Initials of Clerk.	Outlay.		Remarks.
	Name.	Occupation.	Address.						

Waste Book.

157. In many cases a rough waste book or day book is found absolutely necessary, but this, of course, depends upon the nature of the business in which the company is engaged, and its adoption or otherwise must, therefore, be left to the discretion of the manager or secretary. It is used for entering roughly, particulars of any business transaction at the time it takes place, and the matter is afterwards classified and arranged in the process of posting it up in the journal.

Journal.

158. Although this book is always regarded as indispensable in the well conducted counting-house of a merchant, it is generally very much neglected, and not unfrequently excepted from the list of books ordered by public companies. It is, nevertheless, if possible, more important to the correct keeping of the accounts of the latter than the former, for in it may be entered particulars of transactions that might appear open to objection if not thus explained. Every company, therefore, is strongly recommended to procure a journal and likewise to secure the services of a clerk competent to keep it properly and in accordance with principles of double entry.

Ledger.

159. The ordinary form of commercial ledger is equally as suitable to public companies as to private merchants, and as this book should at all times clearly show the position of a private trader, so it should likewise contain a complete record of the operations and status of a public company. Every transaction connected with its dealings should appear in some form on its pages. It is, in fact, the epitome of all the books in the company's possession, the river into which all these tributary streams should flow. The arrangement and division of the accounts under suitable heads must be made with care and consideration. A capital account should first be opened, and accounts should follow for preliminary expenses—current expenditure or costs of administration—plant—office furni-

ture and any other matter which it is desirable to keep separate and distinct. In short, the well known rules of good book-keeping should be as rigidly adhered to in the office of a public company as they are in the best regulated counting-house of a merchant. Strict regularity should be insisted upon in keeping the ledger well posted up, and its correctness may be easily tested by the simple process of a trial balance.

Banking Ledger.

160. In nine cases out of ten this book is entirely superfluous. A properly checked pass-book will always show how a company stands with its banker; and if it is also deemed desirable to have a record of these transactions in the office, nothing can be easier or more effectual than to rule a separate column in the cash book, and place therein all amounts which pass through the banker, and periodically post the totals to a banking account in the ordinary ledger. Indeed, in the case of a public company, it is well that all cash transactions should take place through the medium of a banker, and the cash-book will then be a counterpart of the pass-book, and the column just mentioned be rendered unnecessary. If the company has more than one banker, a separate column may be ruled in the cash-book for each.

Rough Bankers' Book.

161. Unnecessary. *See* last Clause.

Wages' Ledger.

162. This book is only required when the business of the company renders it necessary to employ labour, and will have to be framed to meet its special requirements.

Letter Book.

163. This, of course, is indispensable, and is too well known to need any remarks from us, further than that when indexing a letter it will be found useful to place the folio of those immediately preceding and following it (if any) in the corner of the page, for the purpose of forming a continuous reference, and thus obviating the necessity of constantly turning to the Index.

164. From the foregoing remarks, it will have been seen that if our suggestions are adopted, a public company having its capital divided into shares will in the majority of cases only require the following books: viz.—

First Set.—Cl. 121.
Application and Allotment Book. Cl. 7.
Numerical Register of Shares. Cl. 130.
Certificate Book. Cl. 131 and 132.
Shareholders' Ledger and Register of Members. Cl. 133 to 135.
Register of Transfers. Cl. 136 to 138.
Shareholders' Minute Book. (Rough and Fair). Cl. 140.
Shareholders' Dividend Account Book. Cl. 141.
Register of Proxies. Cl. 143.
Directors' Minute Book. (Rough and Fair.) Cl. 144.
Directors' Agenda Book. Cl. 146.

Second Set.
Cash Book and Petty Cash Book. Cl. 154 and 155.
Postage and Delivery Book. Cl. 156.
Waste Book. Cl. 157.
Journal. Cl. 158.
Ledger. Cl. 159.
Letter Book. Cl. 163.

The above are, of course, the principal books, and are applicable to most companies having their capital divided into shares, but there may be many others of a special nature required also, and which, as we have already stated, must be framed to meet the company's particular requirements.

165. There are also other books of minor importance, such as guard books, for arranging and indexing invoices and other documents, receipt books, &c., which will have to be procured, but which are so well known that it would be a work of supererogation for us to make any further allusion to them.

Balance Sheet and Accounts.

I.—*As to preparing Balance Sheet and Accounts.*
II.—*As to the Duties of Auditors in reference thereto.*

166. If the form of Articles of Association set forth in the first Schedule to the "Act" has been adopted without altering those clauses which refer to the making out of the accounts,

the balance sheet will have to be brought down to a period not exceeding three months before the date of the meeting at which it is intended to lay it before the shareholders. (*See* Cl. 100 to 102).

167. The statement or balance sheet so made out shall show—

I. The amount of gross income, distinguishing the several sources from which it has been derived.

II. The amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters.

Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the current year.—(R. 80).

168. Assuming that the company's books have been systematically kept, it will not be difficult to comply with the foregoing regulations. The form of balance sheet will be found at clause 425; but although the principle there laid down is generally carried out, it is seldom adhered to in detail, nor is it absolutely necessary that it should be. It is true, that regulation 81, provides that the balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in such form, but there is added "or as near thereto as circumstances admit."

169. We would not lay down a simpler rule than the following; viz:—

On the left hand, or Dr. side of the balance sheet, debit or charge the company with everything it has received or rendered itself liable for; and,

On the right hand, or Cr. side, show how such monies, and the consideration for such liabilities, have been disposed of; or, in other words, let the company account for what it has received.

This principle then being thoroughly understood, the question merely resolves itself into a matter of arrangement and detail.

170. The first thing to be ascertained is the amount of capital

which has been paid up, and assuming that our hints have been adopted, this may be easily done by referring to the capital account in the general or cash ledger, where the several sums due on deposit, allotment and calls will be credited. If there are no defaulters, the total, or balance of this account, would represent the correct amount, but on turning to the separate accounts opened for deposit, allotment and calls, respectively, it may be found that one or more of them do not balance, and that there are, therefore, some payments still in arrear. If such be the case, the amount should be taken out, and checked with a list of defaulting members, extracted from the share ledger, as before-mentioned in Cl. 134.

171. This being done, the result may then be entered on the left hand side of the balance sheet, in the following manner.—

To capital—5,000 shares allotted at £10 each - - -	£50,000		
Amount called up. 5,000 shares, £5 per share -	25,000		
Less Arrears of first call - -	1,500		
		23,500	0 0

Thus showing that the company had received, at the date of the balance sheet, the sum of £23,500 of its capital.

172. Should any of the shares have been forfeited and not disposed of again, the nominal capital will, of course, be reduced accordingly, and the arrears of call, for which the members were liable at the time of forfeiture, must also appear on the balance sheet.

173. Also, if any of the shares are paid up, they should be stated separately on the balance sheet, otherwise a great deal of confusion might ensue.

174. The question of capital having been disposed of, the next step will be to ascertain the gross amount of the company's income from every other source, such as trading—commission —interest—transfer fees, &c. As separate accounts will have been opened for these, there will be no difficulty in supplying the necessary materials for this purpose, and entering the particulars thereof on the left hand side of the balance sheet.

175. After this, a list of all the company's liabilities should be taken out of the ledger, and the particulars clearly stated on the balance sheet. These may comprise, debts due by the company,—bills payable,—loans received on mortgage or otherwise, and, in short, anything that the company may be called upon to pay, in respect of any matter or thing that it has made itself liable for.

176. Now, having completed the left hand or Dr. side of the balance sheet, and shown how much the company has received, it will be necessary, in the next place, to indicate in what manner the funds, so placed at its disposal, have been dealt with. Under this head will be comprised all investments and expenditure, such as sums paid for preliminary expenses, property, plant, furniture, salaries, wages, directors' fees, rent, rates and taxes, and sundry other outlay. Assuming that proper accounts have been opened for these, the amounts can easily be extracted, and filled in on the right hand or Cr. side of the balance sheet.

177. Should there be any debts owing to the company, a list of them must be taken out, and the total entered in the balance sheet. In fact, any asset that the company has in its possession, whatever may be its nature, must appear on the credit side of the balance sheet. The utmost care should be used in placing such a value upon the latter, as, in all reasonable probability, would be realised on the same being disposed of; otherwise the public would be misled, and the directors open to just censure.

178. The foregoing remarks refer only to the simplest form of balance sheet, and such as are applicable only to small companies during the first two or three years of their existence; but if a company has at once commenced trading operations, there will, of course, be much more complication in the making out of its balance sheet and accounts.

179. It will be necessary to draw a profit and loss account, the preparation of which, in ordinary cases, requires some practical experience; but in the case of a public company it not only requires a knowledge of the routine, but it is also requisite that the accountant should be a man of sound judgment, and well acquainted with the general principles of business. When it is considered, that upon the accuracy of this account the legality of a dividend depends, we will be pardoned for thus far speaking of the importance of having a competent person to draw it. (*See* Cl. 298.)

180. To attempt to give instructions here, for the preparation of such accounts, would needlessly take up more space than could be spared in a work of this nature, and would, moreover, be productive of very little good.

Experience alone must be the tutor, and if the company has not in its employ a gentleman who can lay claim to this qualification, there is no alternative but to seek the advice and assistance of the auditor. Indeed, we would recommend, in all cases, that he should at least be consulted before the accounts are prepared, as his constant experience in these matters will probably enable him to offer many useful suggestions, and half an hour's conversation may thus obviate an immense deal of labour in altering or modifying the accounts, when submitted to him for the purpose of auditing the same.

II.—As to the Duties of Auditors in reference to the Balance Sheet and Accounts.

181. Once, at least, in every year the accounts of the company shall be examined, and the correctness of the balance sheet ascertained by one or more auditors.—(R. 83.)

182. A copy of such balance sheet shall be supplied to every auditor, and it shall be his duty to examine the same, and compare it with the accounts and vouchers relating thereto. —(R. 92.)

183. Every auditor shall have a list of the company's books delivered to him, and shall have access thereto at all reasonable times. He may employ accountants to assist him in investigating such books and accounts, and may examine the directors or other officers in connection therewith.—(R. 93.)

184. The auditors shall make a report to the members of the result, and shall state whether the balance sheet is a full and fair one, containing the particulars required by the regulations of the company, and whether it is properly drawn up, so as to exhibit a true and correct view of the state of the company's affairs; also whether the directors have given satisfactory explanations when they have been required to afford information on any matter. The auditors' report shall be read at the meeting.—(R. 94.)

185. The foregoing regulations, as to the duties of auditors, are usually inserted in the Articles of Association of every company formed under the "Act," and it would be needless for us to add anything as to the mode which they shall adopt in

carrying out such instructions. The appointment to fill the office of auditor is generally,—or, at all events, should be awarded to a public accountant of experience, sufficiently acquainted with his business to render any remarks from us superfluous, and we will, therefore, content ourselves by suggesting the importance of choosing a thoroughly qualified and disinterested party to fulfil duties, the proper discharge of which has such an important bearing on the interests of all concerned in the welfare of the company.

PART IV.

AS TO THE WINDING-UP OF PUBLIC COMPANIES.

186. A very large portion of the "Act" is devoted to the consideration of this part of our subject. Under its provisions, all companies may now be wound up except railway companies; but we have only to treat more particularly of those formed and registered in the manner prescribed by the "Act" itself. Before the new law came into operation, the process of winding-up was conducted in the Court of Bankruptcy, but this jurisdiction which was conferred on that court by the "Joint Stock Companies Act, 1856," is now vested in the High Court of Chancery for companies registered in England; the Court of Chancery in Ireland for companies registered there; the Court of Session (either division) for companies registered in Scotland; and in case of a company working any mine within and subject to the jurisdiction of the Stannaries, the Court of the Vice Warden thereof, unless the latter certifies that the company would be more advantageously wound up in the Court of Chancery. In England or Ireland, however, where the Court of Chancery makes an order to wind up a company, it may, if it thinks fit, direct that the subsequent proceedings shall be had in the Court of Bankruptcy having jurisdiction where the company's registered office is situated, in which case the latter court shall have the same powers as the Court of Chancery. It may be mentioned, that whenever the word "court" is used in connection with these proceedings, it refers to one of those above enumerated. —(S. 81.)

187. There are at present three methods of winding-up a registered company:* viz.—

* As to the winding-up of an unregistered company, see Cl. 285, *et seq.*

I. By the court.
II. Voluntarily, or by the Company itself; and
III. Under the supervision of the court.

It will be necessary to deal with each of these methods separately; and, as the object is merely to give the reader a general idea of the conditions under which a company may be wound up, together with some account of the way in which it affects the respective individuals connected therewith, rather than to enter into legal technicalities, we will content ourselves by noticing the latter as briefly as possible, and supplying the sections of the "Act," in order that solicitors and others can refer to the same as occasion may require.

WINDING-UP BY THE COURT.

188. A company may be wound up by the court under the following circumstances (S. 79):—

(1.) Whenever the company has passed a special resolution (Cl. 81 to 83) to that effect:

(2.) Whenever it does not commence business within a year from its incorporation, or suspends business for a whole year:

(3.) Whenever the members are less than seven in number:

(4.) Whenever the company is unable to pay its debts:*

(5.) Whenever the court is of opinion that it is just and equitable that the company should be wound up.

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* A company shall be deemed to be unable to pay its debts, (S. 80.)

(1.) When any creditor of the company, at law or in equity, in a sum exceeding £50 then due, has left at its registered office, a demand under his hand requiring payment of such sum, and the company has for three weeks succeeding such service, neglected to pay, or to secure, or compound for the same to the reasonable satisfaction of the creditor.

(2.) When, in *England and Ireland*, execution or other process, in any proceeding instituted by such creditor against the company, is returned wholly or partly unsatisfied.

(3.) When, in *Scotland*, the Inducie of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest have expired without payment being made.

(4.) When it is proved to the satisfaction of the court that the company is unable to pay its debts.

189. Assuming that one or more of these conditions exist, an application is then made to the court by petition—(S. 82.) The company, or any one or more of its creditors or contributories (*see* Cl. 213) may present such a petition, either together or separately, and the winding-up shall be deemed to commence at the time when the presentation takes place. (S. 84.)

190. All dispositions of the property, effects, and things in action of the company, and every transfer of shares, or alteration in the status of the members, made between the commencement of the winding-up, and the order for winding-up shall, unless the court otherwise orders, be void. (S. 153.) The petition shall also constitute a *lis pendens* (S. 114) if registered in accordance with the provisions of the Act, 2 and 3 Vic. cap. 11.

191. Upon hearing the petition, the court may dismiss the same with or without costs, may adjourn the hearing or make any interim, or other order (S. 86.) A copy of the order for winding-up must be sent by the company to the Registrar for entry in his books.—(S. 88.)

192. No action or other proceeding shall be carried on, or commenced against the company after the order made, except with leave of court.—(S. 87.)

193. Where the company is being wound up by, or subject to the supervision of the court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding-up, shall be void to all intents.—(S. 163.)

194. Any judge of the High Court of Chancery may do in Chambers any matter which the court is authorised to do under the "Act," and the Vice Warden of the Stannaries may hold his court for that purpose at any place within the jurisdiction of the Stannaries, or within or near to the place where the company's registered office is situated.—(S. 83.)

195. The court may, at any time after the presentation of the petition for winding-up, grant an injunction to stay any legal proceedings against a company, and may appoint provisionally an official liquidator of the estate and effects of the company. (S. 85.) *See* "Official Liquidator," Cl. 198. At any time, after an order has been made, it may also, upon the application by motion of any creditor or contributory, and upon proof to its satisfaction that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same either altogether or for a limited time, on such terms, and subject to such conditions, as it deems fit.—(S. 89.)

196 The court has power to consult the wishes of creditors and contributories with respect to winding-up a company, and may direct a meeting to be held for ascertaining the same (itself appointing the chairman), but regard is to be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the company.—(S. 91.)

Power of Court to make Rules.

197. Sections 170 to 173 confer certain powers on the respective courts to make rules concerning the mode of winding-up a company, viz:—

In the English Court of Chancery upon the Lord Chancellor, with the Master of the Rolls, and a vice-chancellor, or with two vice-chancellors.

In the Irish Court of Chancery, upon the Lord Chancellor and the Master of the Rolls.

In Scotland upon the Court of Session;* and

In the Stannaries Court upon the Vice-Warden thereof.

But until such rules are made, the ordinary practice of the several courts shall be adhered to.

Liquidation. (*By the Court.*)

I. *As to the Appointment of Official Liquidators.* Cl. 198.

II. *As to the Duties and Powers of Official Liquidators, in collecting and applying the Assets of a Company.* Cl. 200.

III. *As to Contributories and their liability to a Company being wound up—settling List of Contributories, &c.* Cl. 213.

IV. *As to Creditors and Claimants—undue preference of Creditors.* Cl. 229.

V. *Persons suspected of having Company's Property, &c.* Cl. 232.

VI. *Enforcement of appeals from Orders, &c.* Cl. 233.

VII. *As to Commissioners for taking Evidence, &c.* Cl. 240.

VIII. *Costs of winding-up—Dissolution of Company—Disposal of Books, &c.* Cl. 243.

* Official liquidators in Scotland are to have the same powers in all respects as the trustees on any bankrupt estate.

I.—Appointment of Official Liquidators.

198. For the purpose of assisting in winding-up a company, the court may appoint one or more official liquidators, either provisionally or otherwise; and, if more persons than one are appointed it shall define whether any matter required or authorised by the "Act" to be done shall be performed by all or any one or more of them. The court may also determine whether they shall give any, and what security. If, however, there is no official liquidator appointed, or during any vacancy therein, the property of the company shall be deemed to be in the custody of the court.—(S. 92.) *See* also Cl. 195.

199. An official liquidator may resign or be removed by the court on due cause being shown, and such vacancy shall be filled by the court. It shall also settle the amount of remuneration by salary, per centage or otherwise, to be paid for his or their services.—(S. 93.)

II.—The Duties and Powers of an Official Liquidator,* &c.

200. The official liquidator shall be described as such, and not by his individual name, and he shall take into his custody, or under his control, all the property and rights to which the company is entitled. He shall also perform such duties as may be imposed by the court.—(S. 94.)

201. He shall likewise have power, with the sanction of the court, to do the following things.—(S. 95.)

To bring or defend any legal proceedings, civil or criminal, in the name and on behalf of the company:

202. *To* carry on its business so far as may be necessary for the beneficial winding-up of the company:

203. *To* sell the property and effects of the company by public auction or private contract, and to transfer the whole, or part thereof, to any person or company: (By section 157, if any thing in action or right

* For sake of brevity, "liquidator" is put in the singular number, but it is almost needless to state that the remarks which follow are equally applicable in cases where more persons than one are appointed to fill the office.

for which the company would have to sue in its own name is assigned to any person, such person may bring or defend an action relating thereto in his own name.)

204. *To* execute, in the name of the company, all deeds, receipts and other documents, and use, when necessary, the company's seal :

205. *To* prove for, claim, and draw any dividend, in case of the bankruptcy, insolvency or sequestration of any contributory* for any balance due from him ;

206. *To* draw and endorse any bill of exchange, or make any promissory note in the name of the company ; also to raise any requisite sum of money upon the security of the assets of the company :

207. *To* take out, if necessary, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the company :

208. *To* do and execute all such other things as may be necessary for winding-up the affairs of the company and distributing its assets.

209. The court may provide, by an order, that any of the above powers may be exercised without its sanction, and may also, in like manner, restrict the powers of an official liquidator provisionally appointed by the order appointing him.—(S. 96.)

210. By Section 159, the liquidator may, with the sanction of the court, pay any classes of creditors in full, or make such compromise or arrangement, as he may deem expedient, with persons having any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company. (*See* Cl. 229.)

211. Also by section 160, the liquidators, with like sanction of the court, may compromise all calls and debts, whether present or future, certain or contingent, subsisting between the company and any contributory or other debtor, and all questions in any way relating to the assets, or winding-up of the company, upon such terms as may be agreed upon, with power to accept any security for the same, and to give complete discharges in respect thereof.

* As to "contributories," see Cl. 218 *et seq.*

212. A solicitor or law agent may (with the sanction of the court) be appointed by the official liquidator.—(S. 97.)

III.—As to Contributories, &c.

213. The term "contributory" shall mean every person liable to contribute to the assets of a company in the event of its being wound up. It shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.—(S. 74.)

214. And such liability shall (in England and Ireland) be of the nature of a specialty debt, due at the commencement of the contributory's liability, but payable when calls are made, as hereinafter mentioned. (*See* Cl. 223.)

215. In case of the bankruptcy of the latter, it shall be lawful to prove against his estate for the estimated value of his liability to future calls, as well as those already made. (S. 75.) Also by S. 77, the assignees shall represent such bankrupt, and shall be deemed to be contributories accordingly, and may be called upon to admit proof against his estate for the amount due from him. Any person having taken the benefit of the Insolvent Act, before the passing of the new Bankruptcy Law, (11th October, 1861,) shall, for this purpose, be deemed to have become a bankrupt.

216. If any contributory dies, either before or after he has been placed on the "List," (see Cl. 219) his personal representatives shall be liable for the amount due from him, and shall be deemed to be contributories accordingly. (S. 76.) And should they make default in paying the sums so due, proceedings may be taken for administering the personal and real estates of the deceased contributory, or either of such estates, and thus compelling payment of the amount due.—(S. 105.)

217. In the event of a female contributory marrying, before or after being placed on the "List" (Cl. 219), the husband shall be liable to the extent of her liability, and be deemed a contributory accordingly.—(S. 78.)

218. By section 118, under the head of "extraordinary powers," the court may, at any time before or after winding-up order has been made, upon proof being given that there is probable cause for believing that any contributory is about to abscond, or to remove or conceal any of his property, for the purpose of evading payment, or avoiding examination in respect of the affairs of the company, cause him to be arrested, and his books,

papers and property to be seized, and kept in custody until such time as the court may order. *See* also Cl. 308 to 317, as to liability of shareholders.

List of Contributories,—Collection of Assets, &c.

219. As soon as may be, after winding-up order, the court shall settle a list of contributories, with power, where necessary, to rectify the register of members, and shall cause the company's assets to be collected, and applied in discharge of its liabilities. —(S. 98.)

220. In settling such list, the court shall distinguish between contributories in their own right, and persons who are contributories as representatives of others; it shall not be necessary, where such personal representative is placed on the list, to add the heirs or devisees, but they may be so added if the court thinks fit.—(S. 99.)

221. The court may, at any time after winding-up order, require any contributory (settled on the "List,") trustee, receiver, banker, or agent, or officer of the company to pay, deliver, or transfer to the official liquidator, any monies, property, books, or papers in his hands, to which the company is *primâ facie* entitled.—(S. 100.)

222. At any time after winding-up order, the court may make an order on any contributory, directing payment to be made, of any monies due from him, or from the estate of the person whom he represents, to the company, exclusive of any liability to any future call, and it may, when the company is not limited, allow, by way of set-off, any monies due on any independent dealing or contract with the company, but not if due to him as a member in respect of any dividend or profit:—provided that, when all the creditors of any company, (limited or unlimited) are paid in full, any monies due on any account whatever to a contributory, may be allowed by way of set-off against any subsequent calls.—(S. 101.)

223. The court may at any time after winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls, and order payment thereof by all or any of the contributories, settled on the "List," to the extent of their liability, for the purpose of discharging

The debts and liabilities of the company:

The expenses of winding-up the same, and for

The adjustment of the rights of the contributories amongst themselves.

And in doing so, it may make allowance for the contingency that some of the contributories may partly or wholly fail to pay their respective portions of the same.—(S. 102.)

224. In the case of a company limited by guarantee, and having a capital divided into shares, any such capital remaining unpaid, shall be deemed the assets of the company, (in England and Ireland, of the nature of a specialty debt,) and due from and payable by the members, as the court shall direct.—(S. 90.)

225. The court may order such contributories or other persons to pay the money due into the Bank of England, or any branch thereof, to the account of the official liquidator instead of to the official liquidator himself (S. 103); and all such monies, bills, notes or securities, shall be subject to the regulation and order of the court.—(S. 104.)

226. Any order made by the court upon any contributory shall, subject to appeal (see Cl. 238, *et seq.*), be conclusive evidence that all matters stated therein are to be taken to be truly stated as against all persons, and in all proceedings, with the exception of proceedings against the real estate of any deceased contributory, in which case such order shall only be *primâ facie* evidence for charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the order being made —(S. 106.)

227. The court shall adjust the rights of contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.—(S. 109.)

All books and documents of the company and of the liquidators shall, as between the contributories, be *primâ facie* evidence of the truth of all matters recorded therein.—(S. 154.)

228. The court may make an order for creditors and contributories to inspect the books and documents of the company.—(S. 156.)

As to contributories in Scotland, see Cl. 235.

IV.—As to Creditors and Claimants.

229. The court may fix a day on or within which creditors shall prove their debts or be excluded from any distribution made before the same are proved.—(S. 107.)

All claims, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate to be made of the value thereof.—(S. 158.) *See* also Cl. 210.

230. By section 108, the Vice-Warden of the Stannaries is empowered to adjudicate upon any matter connected with a creditor's claim which is in the course of being proved in his court, and which is disputed by the official liquidator—subject, however, to appeal. (*See* Cl. 238.) He may also direct and settle any action or issue to be tried in his court, or at the Cornwall or Devon Assizes, or at the Sittings of the Superior Court, in London or Middlesex, and the finding of the jury in such case shall be conclusive, unless the judge or Vice-Warden are dissatisfied therewith.

Also by section 116, (under extraordinary powers of the court.)

If, *after* an order for winding-up in the Stannaries Court, any person claims property in, or any lien upon any of the plant, materials, or effects on the premises occupied by the company, or to which it was at the time of the order, *primâ facie* entitled, the Vice-Warden or Registrar may adjudicate upon such claim on interpleader, as provided by section 11 of the Act 18 Vict., cap. 32; and any action or issue directed upon such interpleader may be tried in his own court or at the Assizes, or at the Sittings for London or Middlesex, as above directed with respect to disputed claims of creditors.

As to creditors inspecting company's books, see Cl. 228.

Undue or Fraudulent Preference of Creditors.

231. Any transfer of property, delivery of goods, payment, or other act as would, if made or done by or against any individual trader, be deemed in the event of his bankruptcy to be an undue or fraudulent preference of creditors, shall, if made or done by or against any company, in the event of the same being wound-up under the "Act," be invalid; and the presentation of the petition for winding-up the company shall be deemed to correspond with the Act of Bankruptcy in the case of an individual trader; and any conveyance or assignment made by any company formed under the "Act," of its estate and effects to trustees for the benefit of all its creditors, shall be void to all intents.—(S. 164.)

V.—PERSONS SUSPECTED OF HAVING ANY OF THE COMPANY'S PROPERTY—THEIR EXAMINATION, &c.

232. Under head of "extraordinary powers" the court may, after winding-up order has been made, summon before it any person

suspected of having in his possession any property of, or to be indebted to, the company, or to be capable of giving any information in respect thereof; it may also require production of books, papers, deeds, writings, or other documents in his possession or power; and such persons may be apprehended if they do not obey the summons, after a tender of reasonable expenses, unless they make known to the court a satisfactory excuse for not so appearing. In case, however, the latter are required to produce any papers or documents, on which a lien is claimed, such lien shall not in any way be prejudiced thereby. —(S. 115.)

Such persons may be examined on oath by word of mouth, or by written interrogatories, and may be required to subscribe the same.—(S. 116.)

Any powers conferred by the "Act" on the court shall be in addition to, and not in restriction of, any other powers, either at law or in equity with respect to the remedies against any contributory or debtor of the company.—(S. 119.)

As to punishment of delinquent officers, see Cl. 342 to 358.

VI.—As to Enforcement of, and Appeals from Orders.

233. The division of the "Act" comprised under this head has in reality more to do with the legal profession than the public generally, on account of its technical nature, but for the sake of completeness, and considering that one of the sections relates exclusively to contributories in Scotland, it has been deemed desirable to introduce a brief synopsis of the whole of the division. The numbers of the respective sections are supplied for the use of professional readers who can refer to the "Act" at pleasure.

234. CXX. All orders made by the English or Irish Court of Chancery under the "Act" may be enforced in the same manner as any other orders in such courts, and for this purpose the Court of the Vice-Warden of the Stannaries shall, in addition to its ordinary powers, have the same power as the Court of Chancery in England, and shall be deemed to be co-extensive in local limits with the jurisdiction of such Court of Chancery.

235. CXXI. Where a winding-up order, interlocutor, or decree has been made in Scotland, it shall be competent to the court there during sessions, and to the lord ordinary on the bills

during vacation, on production by the liquidators of a certified list of contributories, containing the amount due by each, and the date when same became due, to pronounce forthwith a decree for payment thereof, with interest at 5 per cent. from the said date till payment, in the same way as if the contributories had severally consented to registration for execution, on a charge of six days, of a legal obligation to pay such calls and interest, and such decree may be extracted immediately, and no suspension thereof shall be competent, except on caution or consignation, unless with special leave of the court or Lord Ordinary.

236 CXXII. This section provides that the courts in England, Ireland and Scotland, shall have concurrent jurisdiction in enforcing the orders of the two former courts, and the orders, interlocutors, or decrees of the latter court made in the course of winding-up a company as effectually as if the same had been made by the court having jurisdiction, where the company's registered office is situate.

237. CXXIII. A copy of such order, interlocutor, or decree, shall be forwarded to the proper officer of the court required to enforce the same, and he shall take the requisite steps for enforcing it accordingly.

Appeals from Orders.

238. CXXIV. Re-hearings and appeals from any order or decision of any court in the matter of winding-up a company, to be had in the same manner and subject to the same conditions as any other appeal in the same court, except that notice thereof shall be given within three weeks from the date of the order complained of.

An appeal from the Vice-Warden of the Stannaries to the Lord Warden may be remitted by the latter to the Court of Appeal in Chancery, whose decision shall be final.

239. CXXV. All courts and their officers concerned in these proceedings shall take official notice of the signatures of the officers, and the official seal or stamp of the several offices of the English and Irish courts of Chancery and Bankruptcy, the Scotch court of Session, and the court of the Vice-Warden of the Stannaries.

VII.—As to Commissioners for taking Evidence, &c.

240. CXXVI. The following functionaries shall be commissioners (having all the powers of the court) for taking evidence under the "Act," in whatever part of the United Kingdom the company may be wound up, viz.:—

Commissioners of the Court of Bankruptcy:
Judges of county courts in England, sitting more than twenty miles from the General Post Office; and in Ireland assistant barristers and recorders; and in Scotland the sheriffs of counties.

241. CXXVII. The court may direct the examination of any person for the time being in Scotland, whether a contributory or not, with respect to the affairs of the company, or any person who is a contributory to the same, so far as the company may be interested therein. Such examination to be taken by the sheriff of the county where the person is residing; and for that purpose he is invested with the ordinary powers to compel attendance, production of documents, &c. And the court and witnesses are to have such money allowances as are usual in similar cases in Scotland. If any objection is raised as to the competency of the witness, or as to his liability to produce, the sheriff may refer the objection to the court, and suspend the examination in the meantime.

242. CXXVIII. Any affidavit, affirmation, or declaration, in any way connected with this part of the "Act," may be made in any part of Her Majesty's dominions before any court or person authorised to receive the same, and in all other places before any of Her Majesty's consuls or vice-consuls; and all persons acting judicially are to take judicial notice of the seal of any such court, and of the signature of any such person.

VIII.—As to Costs of Winding-up, &c.

243. The court may, in the event of the assets being insufficient to satisfy the liabilities, make an Order as to payment out of the estate of the company of the costs, charges, and expenses incurred in winding-up, in such order of priority as it thinks fit.—(S. 110.)

Dissolution of Company.

244. When the Company's affairs have been wound up, the court shall make an Order, dissolving it, and same shall be dissolved from the date of such Order.—(S. 111.)

245. The official liquidator shall report same to the Registrar, who shall make a Minute thereof in his books.—(S. 112.)

And in default of doing so, the liquidator shall be liable to a penalty not exceeding £5 per day, during the continuance of such default.—(S. 113.(

Disposal of the Books and Documents.

246. When company is about to be dissolved, the books and documents of the company, and of the liquidators, may be disposed of in such way as the court directs; but after the lapse of five years from date of dissolution, no responsibility shall rest upon the company or any person having custody of the same, by reason of being unable to produce them to any party interested.—(155.)

WINDING-UP VOLUNTARILY.

247. A company may be wound up voluntarily.—(S. 129.)

(1.) On the expiration of the period, if any, fixed for its duration by the Articles of Association, or whenever the event, if any, occurs, upon the occurrence of which such "Articles" provide that the company is to be dissolved, and a resolution has been passed in general meeting requiring it to be so wound up:

(2.) Whenever the company has passed a special resolution requiring it to be wound up voluntarily:

(3.) Whenever the company has passed an extraordinary resolution* that it has been proved to their satis-

* A resolution shall be deemed to be extraordinary if passed in such manner as would, if it had been confirmed by a subsequent meeting. have constituted a special resolution. (*See* Cl. 81 to 83.)

Notice of such resolution shall be advertised, as respects companies registered—

In England, in the "London Gazette."

„ *Scotland*, in the "Edinburgh Gazette;" and

„ *Ireland*, in the "Dublin Gazette."—(S. 132.)

faction that the company is unable, by reason of its liabilities, to continue business, and that it is advisable to wind up the same.

248. The winding-up shall be deemed to commence at the time of passing a resolution as above named —(S. 130.)

249. The company shall, from the latter date, cease to carry on business, except as may be required for the beneficial winding-up thereof; and all transfers of shares, except to or with the sanction of the liquidators, or alteration in the status of the members shall be void, but its corporate state and powers shall, notwithstanding its Regulations, continue until the company is wound up.—(S. 131.)

250. If, in the case of voluntarily winding-up a company, proceedings are taken to have same wound up by the court, the latter may provide in making its Order for the adoption of all or any proceedings taken in the course of the voluntary winding-up. —(S. 146.)

LIQUIDATION. (*Voluntary.*)

I. *As to the Effect of winding-up on the Property of a Company—also on Share Capital of a "Guarantee Company."* (Cl. 251.)

II. *As to the Appointment and Duties of Liquidators.*— (Cl. 253.)

III. *As to Costs of winding-up.* (Cl. 272.) *Disposal of Books and Documents.* (Cl. 273.) *Saving Rights of Creditors.* (Cl. 274.)

I.—AS TO THE EFFECT ON PROPERTY OF A COMPANY, &c.

251. Upon the voluntary winding-up of a company its property shall be applied in satisfaction of its liabilities *pari passu*, and, subject thereto, shall, unless otherwise provided by the company's Regulation, be distributed amongst the members according to their respective rights and interests.—(1st paragraph of S. 133.)

252. If the company is limited by guarantee with a capital divided into shares, any share capital not called up shall be deemed to be assets of the company, in the nature of a specialty debt due from each member to the extent remaining unpaid, and payable at such time as the liquidators may appoint.—(S. 134.)

II.—As to the Appointment and Duties of Liquidators.

253. Section 133, which is subdivided into ten paragraphs, relates almost exclusively to the appointment and duties of liquidators. The numbers of such paragraphs are placed opposite to each one:—

(2.) Liquidators shall be appointed for the purpose of winding-up the company and distributing the property:

(3.) To be appointed by the company in general meeting, and the remuneration to be fixed by it:

254. (4.) If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him:

255. (5.) Upon such appointment all the power of directors to cease, except so far as the company in general meeting, or the liquidators, may sanction:

256. (6.) When there are several liquidators appointed, every power hereby given may be exercised by one or more of them, as determined at the time of their appointment, or in default of such determination, by any number not less than two:

257. (7.) They may, without the sanction of the court, exercise the same powers as are given to the official liquidators in winding-up by the court:

258. (8.) They may also exercise the powers given to the court of settling the list of contributories, and such list shall be *primâ facie* evidence of the liability of the persons named therein to be contributories:

259. (9.) They may at any time after resolution for winding-up, and before having ascertained the sufficiency of the assets, call on all or any of such contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the company, and the expenses of winding it up, and also for the adjustment of the rights of the contributories amongst themselves. In making calls, the liquidators may allow for the contingency that some of the contributories may partly or wholly fail

to pay their respective portions thereof.—(*See* also Cl. 308 to 317 as to liability of members.)

260. (10.) They shall pay the company's debts,* and adjust the rights of the contributories amongst themselves.

261. As to the liquidators paying any class of creditors in full, see Cl. 210, which is equally applicable to a voluntary winding-up, except that instead of the sanction of the court, the sanction of an extraordinary resolution of the company must be obtained.

262. As to the liquidators having power to compromise any call or debt due to the company, see Cl. 211, which is also applicable to a voluntary winding-up, on obtaining the sanction of an extraordinaay resolution of the company.

263. By sections 161 and 162, where any company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, the liquidators may, with the sanction of a special resolution, receive in compensation, or part compensation, for such transfer or sale, shares, policies, or other like interests in such other companies for distribution amongst the members of the company being wound up, or may enter into any other arrangement whereby the members of the latter company may, in lieu of cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of the purchasing company; and such arrangement shall be binding on the members of the company being wound up; subject to this proviso, that if any member who has not voted in favour of the special resolution at either of the meetings expresses his dissent therefrom in writing, addressed to the liquidators or one of them, and left at the company's registered office not later than seven days after the date of the meeting at which such special resolution was passed, the dissentient member may require the liquidators, either to abstain from carrying such resolution into effect, or to purchase his interest in the company at a price to be determined by agreement, or in case of dispute, by arbitration, in accordance with the provisions of "The Companies Clauses Consolidation Act, 1845." The purchase money for the same

* *See* Cl. 229, as to class of debts that may be proved, which is also applicable in voluntary winding-up.

to be paid before the company is dissolved, and to be raised by the liquidators in manner determined by special resolution; and such resolution shall not be deemed invalid by reason that it was passed prior to or concurrently with any resolution for winding-up the company or appointing liquidators; but if order made within a year for winding-up company by or subject to the supervision of the court, such resolution shall not be of any validity unless sanctioned by the court.

264. By section 135, the company may, by an extraordinary resolution, delegate to its creditors or a committee thereof, the power of appointing liquidators, and supplying any vacancies that may arise, or may by a like resolution enter into any arrangement as to their powers and the manner of exercising the same; and any act so done by the creditors shall be as effectual as if done by the company.

265. Such arrangement shall be binding on the company if sanctioned by an extraordinary resolution (see Cl. 247), and on the creditors if acceded to by three-fourths in number and value thereof, subject, however, to appeal.—(S. 136.)

Any creditor or contributory may, within three weeks from the date of the completion of such arrangement, appeal to the court against it, and the court may amend, vary, or confirm the same.—(S. 137.)

266. In the case of voluntarily winding-up, the liquidators or any contributory may apply to the court in *England, Ireland, or Scotland*, or to the Lord Ordinary on the Bills in Scotland in time of vacation, to settle any question arising thereout, or to exercise all or any of the powers which the court might exercise if the company were being wound up by the court; and the court or Lord Ordinary may accede wholly or partially to such application, or make such other order, interlocutor, or decree, as the court thinks just.—(S. 138.)

267. The liquidators may, during the continuance of a voluntary winding-up, summon general meetings for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes; and in the event of the winding-up continuing more than one year, they shall summon a general meeting at the end of the first year, and of each succeeding year, from the commencement, and shall lay before such meeting an account, showing their acts and dealings, and the manner in which the winding-up has been conducted during the preceding year.—(S. 139.)

268. If any vacancy occurs in the office of liquidators, it may be

filled up by the company in general meeting, subject to any arrangement they may have entered into with their creditors; and such meeting may be convened by the continuing liquidators, if any, or by any contributory, and shall be deemed to have been duly held, if held in accordance with the Regulations of the company, or in such manner as may, on application, be determined by the court.—(S. 140.)

269. If from any cause there is no liquidator acting, the court may, on application of a contributory, appoint one or more; and may also, on due cause shown, remove any liquidator and appoint another.—(S. 141.)

270. As soon as the company is fully wound up, the liquidators shall make up an account, showing how the winding-up has been conducted, and the property disposed of; and thereupon they shall call a general meeting for the purpose of having the same laid before the company and hearing any explanation by the liquidators. Such meeting shall be called by advertisement, specifying the time, place and object thereof, published one month at least previously thereto, as respects companies registered in *England*, in the "London Gazette;" in *Scotland*, the "Edinburgh Gazette;" and in *Ireland*, in the "Dublin Gazette."—(S. 142.)

271. The liquidator shall make a return to the Registrar, of such meeting, specifying the date when held; and three months after such return is registered, the company shall be deemed to be dissolved. In default of making such return, the liquidator shall incur a penalty not exceeding £5 for every day during which it continues.—(S. 143.)

III.—As to Costs of Winding-up, &c.

272. All expenses properly incurred in voluntary winding-up, including the remuneration of the liquidators, shall be payable out of the assets of the company, in priority to all other claims. —(S. 144.)

Disposal of the Books and Documents.

273. By section 154, all books and documents of the company, and of the liquidators, shall, as between the contributories, be *primâ facie* evidence of the truth of all matters therein recorded.

When the company is about to be dissolved, the books and

documents of the company, and of the liquidators, may be disposed of as the company by an extraordinary resolution directs; but no responsibility shall attach to any person as to the production thereof to any parties interested, after the lapse of five years from date of dissolution.—(S. 155.)

Saving of Rights of Creditors.

274. The voluntary winding-up of a company shall not be a bar to the right of any creditor to have the same wound up by the court, if it is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.—(S. 145.)

275. As to fraudulent preference of creditors, see Cl. 231, which is equally applicable to a voluntary winding-up, only, that instead of the presentation of the petition being deemed to correspond with an Act of Bankruptcy in case of an individual trader, the resolution for winding-up voluntarily shall be deemed to correspond with such Act of Bankruptcy.

AS TO WINDING-UP, SUBJECT TO THE SUPERVISION OF THE COURT.

276. When a company is winding-up voluntarily, the court may direct that it shall so continue, but subject to the supervision of the court and to such conditions as it may think just.—(S. 147.) And the petition praying for same shall, for the purpose of giving jurisdiction to the court over suits and actions, be deemed a petition for winding-up the company by the court.—(S. 148.)

277. The court may, in determining whether a company is to be wound up altogether by it, or subject to its supervision, and in all other matters relating to the winding-up subject to supervision, have regard to the proved wishes of the creditors or contributories, and may direct meetings to be held for the purpose of ascertaining the same, and may appoint a chairman of any such meeting to report the result to the court. In the case of creditors, regard shall be had to the value of debts due to each, and in the case of contributories, to the number of votes to which they are entitled.—(S. 149.)

278. Any attachment, sequestration, distress or execution, put in force against the estate or effects of the company after the

commencement of the winding-up, shall be void to all intents. —(S. 163.)

279. And by section 153, any disposition of the property, effects, and things, in action of the company, and every transfer of shares, or alteration in the status of the members made between the commencement of the winding up and the Order for winding-up, shall, unless the court otherwise orders, be void.

280. Where Order made for winding-up subject to supervision, the court may in such Order, or subsequent Order, appoint additional liquidators, who shall in all respects stand in the same position as if they had been appointed by the company. The court may also remove any liquidators so appointed, and fill up any vacancy.—(S. 150.)

281. The liquidators appointed to conduct the winding-up under supervision, may, subject to any restrictions imposed by the court, exercise all their powers without its sanction or intervention, as if the company were being wound-up voluntarily; but save as aforesaid, any Order made by the court for a winding-up subject to its supervision, shall for *all purposes* be deemed to be an Order for winding-up the company by the court; and in the construction of the provisions of the "Act," whereby the court is empowered to direct any matter or thing to be done to or in favour of the official liquidators, the expression, "official liquidators," shall be deemed to mean the liquidators conducting the winding-up, subject to the supervision of the court.—(S. 151.)

282. In case the winding-up Order, subject to supervision, is superseded by an Order for winding-up compulsorily, the court may, by the latter Order, appoint the voluntary liquidators, or any of them, provisionally or permanently, and with or without the addition of any other persons, to be official liquidators.—(S. 152.)

283. All books and documents of the company, and of the liquidators, shall, as between the contributories, be *primâ facie* evidence of the truth of all matters recorded therein.—(S. 154.)

284. As to the disposal of the same on dissolution of the company, see Cl. 246, the method being the same as if the company were wound up by the court.

Also see Cl. 228, as to inspection of same by creditors or contributories of the company.

As to class of debts that may be proved, &c., see Cl. 210 and 229.

As to power to pay any classes of creditors in full, see Cl. 210.

As to undue or fraudulent preference of creditors, see Cl. 231.

As to punishment of delinquent officers, see Cl. 342 to 358.

As to power of liquidators to compromise any call or debt due to the company, see Cl. 211.

As to power of the court to make rules, see Cl. 197.

And as to unpaid capital of a guarantee company, see Cl. 252.

AS TO WINDING-UP UNREGISTERED COMPANIES.

285. Although the present work relates more particularly to companies formed and registered under the "Act" we have, for the sake of completeness, deemed it desirable to state as briefly as possible the conditions under which an unregistered company may be wound up in accordance with its provisions.

286. By section 199, any unregistered partnership, association, or company,* having more than seven members, except railway companies, incorporated by Act of Parliament, may be wound up under the "Act," the winding-up provisions whereof are (subject to the following exceptions and additions) made applicable thereto:—

287. (1.) An unregistered company shall, for the purpose of determining the jurisdiction of the court, be deemed to be registered in that part of the United Kingdom where its principal place of business is situate (or if more than one principal place of business, in the place where the proceedings have been instituted); and such place of business shall for all the purposes of winding-up be deemed to be the registered office of the company:

288. (2.) No unregistered company shall be wound up under the "Act" voluntarily, or subject to the supervision of the court:

289. (3.) An unregistered company may be wound up under the following circumstances:—

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* These are afterwards to be understood as included in the term "unregistered companies."

(*a.*) When the same is dissolved, or has ceased to carry on business, or is merely continuing such business for the purpose of winding-up its affairs:

(*b.*) When it is unable to pay its debts:*

(*c.*) When the court is of opinion that the company should be wound up:

DEFINITION OF CONTRIBUTORY.

290. By section 200, contributory shall include every person who is liable to contribute to the payment of the liabilities of the

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* The company shall be deemed unable to pay its debts.—(S. 199.)

(*a.*) Whenever any creditor of the company in a sum exceeding £50 then due has left at the company's principal place of business, or otherwise served the same as the court may approve or direct, a demand under his hand requiring payment of the sum so due, and the company has for three weeks succeeding such service neglected to pay, or to secure or compound for the same to the satisfaction of the creditor:

(*b.*) Whenever any legal proceeding has been instituted against any member of the company for any claim due, and notice thereof in writing has been left at its principal place of business, or by otherwise serving the same, as the court may approve or direct, and the company has not within ten days after such service paid, secured, or compounded for such claim, or procured such legal proceeding to be stayed, or indemnified the defendant (or member so sued), to his reasonable satisfaction:

(*c.*) Whenever, in *England* or *Ireland*, execution or other process, in any proceeding instituted by such creditor against the company or any member thereof, as such or other authorised nominal defendant, is returned wholly or partly unsatisfied:

(*d.*) Whenever, in the case of an unregistered company working mines, subject to the Stannaries, a customary decree or order absolute for the sale of the machinery and effects of such mine has been made in a creditor's suit in the Vice-Warden's Court:

(*e.*) Whenever, in *Scotland*, the Inducise of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made:

(*f.*) Whenever it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts.

company, or the cost of adjusting the rights of the members among themselves, or of the winding-up; but in the event of the death, bankruptcy, or insolvency of any contributory, or the marriage of a female contributory, the provisions comprised in Cl. 215 to 217 shall also be applicable to the present case.

Effect of Petition and Order on Proceedings against Company.

291. After presentation of the petition for winding-up, and before making the order the court may, on the application of any creditor, restrain any proceedings against the company or any contributory upon such terms as it thinks fit.—(S. 201.)

292. Also by section 202, no proceedings shall be commenced or continued against any contributory for a debt of the company, after the order is made, except by leave of the court.

Power for Liquidators to sue on behalf of the Company.

293. By section 203, if any such company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the court may by its order vest any of the company's property, effects, or rights in the official liquidators, upon which the latter may, in their official or other names, and after giving such indemnity as the court directs, bring or defend any legal proceedings necessary for winding-up the company and recovering its property.

Provisions of the Act to be cumulative.

294. By section 204, the provisions of this part of the "Act" shall be in addition to, and not in restriction of, any of the provisions with respect to winding-up companies by the court, and the court or official liquidator may, in addition, exercise any of the powers, or do any act in the case of unregistered companies, which might be exercised or done in winding-up companies formed under the "Act;" but an unregistered company shall not be deemed to be a company under the "Act," except in the event of its being wound up, and then only to the extent provided by this part thereof.

PART V.

MISCELLANEOUS MATTERS.

DIRECTORS AND PROMOTERS.

295. Before a person consents to become a director of a public company, he cannot be too careful in satisfying himself of the accuracy of all the allegations contained in the prospectus proposed to be submitted to the public, for should the latter be framed so as to mislead intending shareholders, he not only compromises his good name, but renders himself liable to actions for recovery of the deposit money. And, moreover, should any false statements be made which show a fraudulent intent to deceive, he will also become criminally amenable to the laws of the land, and all kinds of unpleasant consequences may ensue.

296. Any promoter (whether a director or not) is liable for all preliminary expenses connected with the getting up of a public company, and unless the payment thereof is expressly provided for in the Articles of Association, the company cannot be called upon after its incorporation to refund the same.

297. An action tried at Kingston, in April last, before Lord Chief Justice Erle, fully illustrates the liability of a director for preliminary expenses, and a brief report thereof may, therefore, not be out of place.

The action was brought by an advertising firm, against a Mr. Marshall, who was one of the directors of a proposed undertaking, entitled "The Adelaide North Arm Port and Railway Extension Company (Limited)," to recover the sum of £1378 for advertising. It was not attempted to dispute that such sum had been expended by the plaintiffs, but it was urged on behalf of the defendant, that by arrangement all these and other preliminary expenses were to be borne by Mr.

Payne, the projector of the company, and Mr. Allen, who owned the land, and that the directors were therefore to be relieved from all liability in respect of the same. As it was not proved, however, that the plaintiffs had been made acquainted with this arrangement, they recovered the whole amount of their claim.

298. After a company has been incorporated, it is equally important that directors should exercise the greatest care in its administration. In the case Bale *v.* Cleland and others, tried at Guildford in the month of August last before Baron Martin, it was alleged that the defendants (the directors of the company) had declared a dividend out of the *capital*, instead of out of the *profits* of the company, and that in fact there was no profit at all, but on the contrary a loss, and that in consequence of such declaration the plaintiff had been induced to take shares. The action was, therefore, brought to recover the money paid in respect of such shares, and, after two days' hearing, it was agreed to settle the matter by withdrawing a juror, the plaintiff being repaid the money which he claimed. For a full report of this case, the reader is referred to the "Times" of the 11th and 12th of August last.

299. In concluding this brief notice, we would strongly recommend all persons who intend becoming directors, to make themselves thoroughly acquainted with the duties and responsibilities which the office entails, and we have accordingly prepared a copious index, in order that such knowledge may be acquired with the least possible expenditure of time and trouble. *See* also Cl. 93 to 99, and 416 to 420.

AS TO SHAREHOLDERS OR MEMBERS.*

I. *As to becoming a Member.* Cl. 300 to 307.
II. *As to the Nature of Members' Interest and Transfer thereof. See* Cl. 58 to 62.
III. *As to Liability of present and past Members.* Cl. 308 to 317.
IV. *As to the Privileges of Members.* Cl. 318 to 323.

I.—As to becoming a Member, &c.

300. Before subscribing to any company, an intending shareholder should first satisfy himself that the undertaking is

* The words "member" and "shareholder" may, for most purposes, be taken as synonymous.

a *bona fide* one, and should moreover secure a copy of its Articles of Association, in order to ascertain upon what conditions he assumes a position, which is by no means free from responsibility.

301. Many persons invest their money in public companies very much after the manner of putting it into a lottery and content themselves with the idea that whatever happens their loss is limited, while, at the same time, there is, to say the least, a probability that the company may turn up "trumps," and thus compensate them for the risk. It is not, however, to this class of speculators that we address our remarks; neither is it expected that such persons would take the trouble to read them if we did.

302. But there is yet another, and very numerous class of people, who are constantly seeking for a profitable field of investment for their money, and who, although anxious to avail themselves of the best market, would not be prepared to sacrifice security for the bare prospect of a high rate of interest. It is then to such persons of the latter class as purpose entrusting their money to public companies that we would recommend a perusal of these remarks.

303. An applicant for shares in a public company may withdraw his application at any time before the allotment takes place, notwithstanding that he has paid his deposit.

304. The subscribers of the company's Memorandum of Association shall be deemed to have agreed to become members thereof, and, upon registration of the company, shall be entered on the Register of Members accordingly; and every other person who has agreed to become a member, and whose name is entered on such register, shall be deemed to be a member of the company. (S. 23).

305. If the name of any person is, without sufficient cause, entered in, or omitted from the Register of Members, or if default is made, or unnecessary delay takes place in entering on the register, the fact of any person having ceased to be a member of the company, the person aggrieved should at once apply to a solicitor, who will adopt the necessary proceedings (under sections 35 and 36 of the "Act) for the purpose of obtaining an order to rectify the register.

306. It is not absolutely necessary that a party should have signed the "Memorandum," or the Articles of Association, to constitute him a member of a company, for the fact of taking shares, whether by application in the prescribed form, or by transfer, constitutes a person a member. In the case of a new company,

however, those persons who omit to sign the Articles of Association, do not become members until the company is incorporated.

307. A certificate under the common seal of the company, specifying any shares or stock held by a member, shall be *primâ facie* evidence of his title to the same. (S. 31). Should this certificate be worn out or lost, the regulations of the company usually provide for its renewal, on payment of 1s. by the member requiring it. (R. 2 and 3). Where, however, forfeited shares are purchased, it is usual to append to the certificate a statutory declaration in writing, that a call in respect of the shares was made—that notice thereof was given—that default ensued—and that the forfeiture was made by a resolution of the directors to that effect. This declaration, and a receipt of the company for the purchase-money are held (where the "Articles" so provide) to constitute a good title to such shares. —(R. 22).

As to calls on shares, see Cl. 54 and 55.

Also as to forfeiture of shares, see Cl. 56 and 57.

II.—As to the nature of a Member's Interest, and Transfer thereof.

See Cl. 58 to 62.

III.—As to Liability of present and past Members.

308. It is a very common occurrence to meet with shareholders who imagine that the moment they have disposed of their shares, all liability in respect thereof ceases. This is not so, however, for by S. 38 every *past* and present member of a company being wound-up, shall be liable (with the following qualifications) to contribute to its assets to an amount sufficient for payment of the debts and liabilities of the company, the expenses of winding-up the same, and for such sums as may be required for the adjustment of the rights of the contributories amongst themselves.

The qualifications are that,

309. (1.) No *past* member shall be so liable if he has ceased to be a member for a year prior to the commencement of the winding-up:

310. (2.) Such liability shall not extend to any debt of the

company contracted *after* he ceased to be a member:

311. (3.) Neither shall he be liable at all, unless the existing members are unable to satisfy the contributions required to be made by them in pursuance of the "Act:"

312. (4.) If company limited by shares, no contribution shall be required of him, exceeding the amount unpaid on the shares in respect of which he is liable as a present or past member.

313. (5.) And if limited by guarantee, such contribution not to exceed the amount of the undertaking entered into on his behalf in the Memorandum of Association.

314. (6.) Nothing in the "Act" to invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of such policy or contract.

315. (7.) No sum due to a member (in his character of member) by way of dividends, profits or otherwise, shall be deemed to be a debt of the company, payable to such member in a case of competition between himself and any other creditor, not being a member of the company; but any such sum may be taken into account, in the final adjustment of the rights of the contributories amongst themselves.

316. In addition to the foregoing liability, if any company carries on business when the number of its members is less than seven, for a period of six months, every member during the time that it carries on business after such period of six months, and who is cognizant of the fact, shall be liable for the payment of the whole debts of the company contracted during such time, and may be sued for the same separately. (S. 48.)

317. By section 182 no banking company claiming to issue notes in the United Kingdom shall be entitled to limited liability in respect of such issue, but shall continue subject to unlimited liability in respect thereof, and, if necessary, the assets shall be marshalled for the benefit of the general creditors, *and the*

members shall be liable for the whole amount of the issue, in addition to the sum for which they would be liable as members of a limited company.

See also Index under head "Contributory."

IV.—As to Rights and Privileges of Members.

318. A member may inspect the company's register gratis, and demand copies on payment, for particulars of which see Cl. 37. He may also demand a copy of the Memorandum of Association, having annexed thereto the Articles of Association (if any,) on payment of a sum not exceeding 1s. (Cl. 46.)

Also as to the right of members to inspect the books of account, see Schedule, Part VII., R. 78.

319. As to members or creditors being entitled to a copy of the statement required to be be made out half-yearly by banking and other companies, see Cl. 34.

320. The Board of Trade may, under certain conditions, appoint inspectors to examine into the affairs of the company, on application of the members. *See* Cl. 333 *et seq.*

321. As to members making a requisition for a general meeting in case of need, see R. 32 to 34. Schedule A, Part VII.

322. As to voting at general and other meetings, see Cl. 84 to 92.

323. In concluding, as in commencing these remarks, we would strongly recommend an intending shareholder to peruse the company's Articles of Association before taking shares, and for the purpose of assisting him in this respect we have furnished in Part VII. the several forms given in the Schedules of the "Act," which are very seldom altered in any material particular, and which he may refer to at his leisure.

CREDITORS.

I.—As to Debts against Companies which are not carried out.

324. The greatest risk which creditors are liable to is, in respect of debts incurred prior to the incorporation of a public company, inasmuch as the undertaking may fall to the ground, and its promoters may be men of straw. It also frequently occurs that special agreements are entered into for the purpose of exonerating the directors from any liability connected there-

with, but this circumstance must be made known to the creditors, otherwise it will have no effect, and the latter may recover against them. *See* Cl. 297. In all cases, however, it is well that creditors should take care to enquire into the "status" of the parties projecting a company before allowing them to incur any debts on its behalf, for if the speculation should prove unsuccessful, many obstacles are almost certain to be thrown in the way on their attempting to enforce their claims.

325. This may seem unnecessary advice to shrewd business men, but a glance at the ledgers of a few advertising agents and stationers would satisfactorily prove the contrary.

II.—As to Debts incurred by Companies which are carried out.

326. A company's Articles of Association always provide, or rather should always provide for payment of all *preliminary* expenses. In nine cases out of ten, therefore, a creditor is generally safe on this score, and with respect to debts incurred after the incorporation of the company, he is also well protected by the provisions of the "Act."

327. The company is bound under penalty (see Cl. 32) to have its name mentioned in legible characters in all bills of exchange, promissory notes, cheques, &c., and any director or officer failing to carry out this requirement, will also be personally liable to the holder of such bills, &c., if the same are not duly paid by the company.

328. Assuming the latter to be properly incorporated, any debts incurred by it are recoverable in the ordinary way, while the company continues in operation, and the creditor has only, in case of need, to hand particulars of his claim to a solicitor, who will adopt the necessary measures for enforcing it.

329 Any charge affecting the company's property must be entered in the register of mortgages, which can be inspected by any creditor, see Cl. 38.

330. Any person may also inspect the register of the members of the company. *See* Cl. 37.

331. It will thus be evident, that if a creditor only exercises ordinary precaution and carefully watches the operation of a company, there will be little fear of his becoming involved in any loss arising from bad debts, more especially if he takes the trouble to inspect the annual returns made to the Registrar,

and avails himself generally of the publicity which is now inseparable from the dealings of all joint-stock companies formed under the "Act."

332. In the event of the company being wound up, the creditor's interest is also equally well protected by the provisions of the "Act," as will be seen on referring to that portion of this work comprised under the head of "Winding-up," the whole of which every creditor should read if his claim is large enough to make it worth the trouble. But whether it is so or not, he may easily turn to the Index, where he will readily find a clue to the information relating to his particular wants.

INSPECTORS.

333. One or more persons (called inspectors) may be appointed to examine into the affairs of any company, either by the Board of Trade or by the company itself, under the following conditions, viz. :—

334. *If by the Board of Trade* (S. 56 and 57), it may be, upon application by the following persons, supported by such evidence as the "Board" may require, showing good reason for requiring the investigation, and that the applicants are not actuated by malicious motives.

335. (1.) In the case of a banking company having shares, upon the application of the holders of one-third of such shares for the time being issued:

336. (2.) Any other company that has a capital divided into shares, upon the application of members holding one-fifth of the whole of such shares: and

337. (3.) Any company not having capital into shares, upon the application of one-fifth of the members appearing at the time on the register.

338. The Board of Trade may likewise require the applicants to give security for the costs of the inquiry before proceeding to make the appointment.—(S. 57.)

339. *If by the company*, it must be by special resolution (see Cl. 114), in which case inspectors so appointed shall have exactly the same powers as if the appointment had been made by the Board of Trade, the only exception being, that instead of making their report to the latter, they shall make it in such manner and to such persons as the company in general meeting directs.—(S. 60.)

340. In either case it shall be the duty of all officers and agents

of the company to produce, for the examination of the inspectors, all books and documents in their custody or power; and any inspector may examine, upon oath, the officers and agents of the company in relation to its business, and may administer such oath accordingly. *See* Cl. 44, for penalty in case of default of any officer in this respect.—(S. 58 and 60.)

341. When appointed by the Board of Trade, the inspectors report their opinion to that body, and such report shall be written or printed, as it directs. A copy thereof is then forwarded by the "Board" to the company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. The costs of the inquiry shall also be paid by the latter, unless the "Board" directs the same to be paid out of the assets of the company.—(S. 59.)

As to copy of report being admissible in evidence, see Cl. 72.—(S. 61.)

AS TO DELINQUENT DIRECTORS, OFFICERS, OR MEMBERS.

342. If in the course of the winding-up of a company it appears that any past or present director, manager, liquidator, or other officer, has misapplied or retained in his own hands, or become liable for any monies of the company, or been guilty of any misfeasance or breach of trust, the court may, on the application of any liquidator, creditor, or contributory of the company, although the offence is criminally punishable, examine into the conduct of such offender, and compel him to pay the monies in question, together with interest thereon, or to contribute to the assets of the company by way of compensation in respect of such offence, as the court shall think just.—(S. 165.)

343. If any director, officer, or contributory of any company, wound up under the "Act," destroys, alters or falsifies any books, documents or securities, or makes, or is privy to the making of, any false or fraudulent entry in any book or document of the company with intent to defraud, such offender shall be guilty of a misdemeanor, and on conviction shall be liable to imprisonment for not exceeding two years, with or without hard labour.—(S. 166.)

344. Where any company is being wound up by or under the

supervision of the court, if it appears that any past or present director, manager, officer or member, has been guilty of any offence in relation to the company for which he is criminally responsible, the court may, on the application of any person interested in such winding-up, or of its own motion, direct the liquidators to institute and conduct a prosecution for such offence, and order the costs and expenses to be paid out of the assets of the company. (S. 167.) And where a company is being wound up voluntarily, the liquidators, with the previous sanction of the court, may prosecute such offender; and all expenses properly incurred by them shall be payable in like manner out of the assets of the company in priority to all other liabilities.—(S. 168.)

345. If any person wilfully and corruptly gives false evidence in any matter arising under the "Act," he shall, upon conviction, be liable to the penalties of wilful perjury.—(S. 169.)

346. In addition to the foregoing provisions which are contained in the Act itself, any delinquent director, officer or member, may also be prosecuted under another statute, termed the "Fraudulent Trustee Act" (20 & 21 Vict., cap. 54). I have therefore given a brief synopsis of such portions of the latter as refer more particularly to public companies, and have placed the numbers of the respective sections opposite to each.

347. (5.) If any director, member, or public officer of a body corporate or public company, shall fraudulently take or misapply, to his own use, any money or property, he shall be guilty of a misdemeanor.

348. (6.) If any director, public officer, or manager of a body corporate or public company, shall, as such, receive or possess himself of the money or property otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make a full and true entry in the books, he shall be guilty of a misdemeanor.

349. (7.) If any director, manager, public officer or member, shall, with fraudulent intent, destroy, mutilate or falsify any of the books, papers, writings or securities, or make, or concur in the making of, any false entry or any material omission in any book, or account, or other document, he shall be guilty of a misdemeanor.

350. (8.) If any director, manager or public officer, shall make, circulate or publish, any written statement or account (or be privy thereto) which he

shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property belonging to such company or body corporate, or to enter into any security for the benefit thereof, he shall be guilty of a misdemeanor.

351. (9.) Any person receiving any misapplied chattel money or valuable security, knowing the same to be fraudulently disposed of, shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the party guilty of the principal misdemeanor shall or shall not have been previously convicted, or shall or shall not be amenable to justice.

352. (10.) Persons found guilty are liable, at the discretion of the court, to penal servitude for three years, or to suffer such other punishment, by imprisonment, for not more than two years, with or without hard labour, or by fines, as the court shall award.

353. (12.) Nothing in this Act contained, nor any proceeding, conviction or judgment, to be had or taken thereon against any person under this Act, shall prevent, lessen, or impeach, any remedy at law or in equity which any party aggrieved by any offence against this Act, might have had if it had not been passed, but no conviction of any such offender shall be received in evidence in such action of suit; and nothing in this Act shall prejudice any agreement entered into, or security given, by any trustee having for its object the restoration or repayment of any trust-property misapplied.

354. (14.) Should the offence prove to be a larceny, the offender by reason thereof shall not be acquitted of misdemeanor.

355. (15.) Court may allow expenses of prosecution in all respects, as in case of felony.

356. (16.) Prosecutions under this Act are not triable at the Quarter Sessions.

357. (17.) The word "Trustee" shall mean "Liquidator,"

under the "Joint Stock Companies Act, 1856;" but the latter is repealed, and is therefore not applicable to the "Companies Act, 1862."

358. (18.) The Act shall not extend to Scotland.

REGISTRATION OFFICE.

359. The office for the registration of joint stock companies in England is No. 13, Serjeants' Inn, Fleet Street, London, the present Registrar being the Hon. E. C. Curzon.

In Ireland, Record Buildings, Dublin, the present Assistant-Registrar being G. Crawford, Esq.; and,

In Scotland, Exchequer Chambers, Parliament Square, Edinburgh, the present Registrar being John Henderson, Esq.

Also at Truro, Cornwall, for the registration of joint stock companies formed for working mines within the jurisdiction of the Court of the Vice-Warden of the Stannaries, the Assistant-Registrar being W. Michell, Esq.

360. All matters connected with the administration of these offices are placed under the direction and control of the Board of Trade. The following is a brief synopsis of section 174 relating thereto, and is subdivided into eight clauses, which respectively give power to the Board:—

(1.) To appoint registrars and other officers:

(2.) To regulate the duties of such officers:

(3.) To determine the places at which offices for the registration of companies are to be established in England, Ireland and Scotland; also as to the Registrar's office of the Court of the Vice-Warden of the Stannaries:

(4.) To direct that any seals shall be prepared for stamping documents, &c.:

(5.) To enable every person to inspect any of the documents kept by the Registrar on payment of a fee, not exceeding one shilling for each inspection; and any person may require a certificate of the incorporation of any company, or a certified copy or extract of any other document, or any part thereof, on the following terms:—

	s.	d.
For certificate of incorporation, a fee not exceeding	5	0
„ copies or extracts not exceeding per folio	0	6

And in Scotland—

For copies or extracts, a sum not exceeding 6*d* for each sheet of 200 words.

(6.) For existing Registrars and other officers to continue to hold office, and receive the same salaries as hitherto, during the pleasure of the Board of Trade, and to conform to the regulations of the latter.

(7.) To pay to any Registrar, or other officer appointed after the passing of the "Act," such salaries as the Board of Trade (with the sanction of the Commissioners of the Treasury) may direct.

(8.) Directions that any matter directed by the "Act" to be done to or by the "Registrar" shall, until the "Board" otherwise directs, be done in England, Ireland and Scotland by the respective Registrars in each place, or by such other persons as the "Board" may, for the time being, direct.

361. No notice of any trust expressed, implied, or constructive, shall be entered on the register, or be receivable by the Registrar in the case of companies under the "Act" registered in England or Ireland.—(S. 30.)

Fees.

362. For amount of fees to be taken by Registrar on the registration of public companies, see Cl. 21 and 22. Although the Board of Trade has power to alter the forms contained in the first and second Schedules of the "Act," it has none to increase the amount of these fees.—(S. 71).

PART VI.

AS TO EXISTING COMPANIES.

363. Parts 6 and 7 of the "Act" being devoted entirely to the consideration of those Companies which were in existence at the time when the new law came into operation, (2nd November, 1862,) it has been deemed desirable to extract them under this head, and also to give a synopsis of Table B of "The Joint Stock Companies Act, 1856," which is still applicable to such companies as have been registered under the latter statute. The first of the above parts comprises sections 175 to 178, and relates to existing companies which do *not* register under the present "Act." It is copied here verbatim.

I.—AS TO EXISTING COMPANIES WHICH DO NOT REGISTER UNDER THE "ACT."

Definition of Joint Stock Companies Acts.

364. (175.) The expression "Joint Stock Companies Acts" as used in this Act shall mean the "Joint Stock Companies Act, 1856," "The Joint Stock Companies Acts, 1856, 1857," "The Joint Stock Banking Companies Act, 1857," and "The Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability," or any one or more of such Acts, as the case may require; but shall not include the Act, 8 Vic., cap. 110.

Application of Act to Companies formed under Joint Stock Companies Acts.

365. (176.) Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to companies

formed and registered under the said Joint Stock Companies Acts, or any of them, in the same manner in the case of a limited company as if such company had been formed and registered under this Act as a company limited by shares, and in the case of a company other than a limited company as if such company had been formed and registered as an unlimited company under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such companies were respectively registered under the Joint Stock Companies Acts, or any of them, and the power of altering regulations by special resolution, given by this Act, shall, in the case of any company formed and registered under the said Joint Stock Companies Acts, or any of them, extend to altering any provisions in the Table marked B. annexed to the "Joint Stock Companies Act, 1856," and shall also, in the case of an unlimited company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the Memorandum of Association.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER JOINT STOCK COMPANIES ACTS.

366. (177.) This Act shall apply to companies registered but not formed under the said Joint Stock Companies Acts, or any of them, in the same manner as it is hereinafter declared to apply to companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such companies were respectively registered under the said Joint Stock Companies Acts, or any of them.

MODE OF TRANSFERRING SHARES.

367. (178.) Any company registered under the said Joint Stock Companies Acts, or any of them, may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

II.—APPLICATION OF THE "ACT" TO EXISTING COMPANIES AUTHORISED TO REGISTER UNDER IT.

368. Part 7 of the "Act" comprising sections 179 to 198, refers to existing companies which may register under its provisions, and, like Part 6, has been extracted verbatim.

Regulations as to Registration of existing Companies.

369. (179.) The following regulations shall be observed with respect to the registration of companies under this part of this Act, (that is to say,)—

(1.) No company having the liability of its members limited by Act of Parliament or Letters Patent, and not being a joint stock company, as hereinafter defined, shall register under this Act in pursuance of this part thereof:

(2.) No company having the liability of its members limited by Act of Parliament or by Letters Patent, shall register under this Act in pursuance of this part thereof, as an unlimited company, or as a company limited by guarantee:

(3.) No company that is not a joint stock company, as hereinafter defined, shall, in pursuance of this part of this Act, register under this Act as a company limited by shares:

(4.) No company shall register under this Act, in pursuance of this part thereof, unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy, in cases where proxies are allowed by the regulations of the company, at some general meeting summoned for the purpose:

(5.) Where a company, not having the liability of its members limited by Act of Parliament or Letters Patent, is about to register as a limited company, the majority required to assent, as aforesaid, shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting:

(6.) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of the same being wound-up, during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceased to be a member, and of the costs, charges, and expenses of winding-up the company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

In computing any majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company of which he is a member.

COMPANIES WHICH MAY BE SO REGISTERED.

370. (180.) With the above exceptions, and subject to the foregoing regulations, every company existing at the time of the commencement of this Act, including any company registered under the said Joint Stock Companies Acts, consisting of seven or more members, and any company hereafter formed in pursuance of any Act of Parliament other than this Act, or of Letters Patent, or being a company engaged in working mines within and subject to the Jurisdiction of the Stannaries, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act, as an unlimited company, or a company limited by shares, or a company limited by guarantee; and no such registration shall be invalid by reason that it has taken place with a view to the company being wound-up.

DEFINITION OF JOINT STOCK COMPANY.

371. (181.) For the purposes of this part of this Act, so far as the same relates to the description of companies empowered

to register as companies limited by shares, a joint stock company shall be deemed to be a company having a permanent paid-up, or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held, partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such company when registered with limited liability under this Act shall be deemed to be a company limited by shares.

PROVISO AS TO BANKING COMPANY.

372. (182.) No banking company claiming to issue notes in the United Kingdom shall be entitled to limited liability in respect of such issue, but shall continue subject to unlimited liability in respect thereof, and, if necessary, the assets shall be marshalled for the benefit of the general creditors, and the members shall be liable for the whole amount of the issue, in addition to the sum for which they would be liable as members of a limited company.

REQUISITIONS FOR REGISTRATION BY COMPANIES.

373. (183.) Previously to the registration in pursuance of this part of this Act of any joint stock company, there shall be delivered to the Registrar the following documents; that is to say,—

(1.) A list showing the names, addresses, and occupations of all persons who on a day named in such list, and not being more than six clear days before the day of registration, were members of such company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(2.) A copy of any act of parliament, royal charter, letters patent, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company:

(3.) If any such joint stock company is intended to be registered as a limited company the above list

and copy shall be accompanied by a statement specifying the following particulars; that is to say,—

The nominal capital of the company and the number of shares into which it is divided:

The number of shares taken and the amount paid on each share:

The name of the company, with the addition of the word "Limited," as the last word thereof:

With the addition, in the case of a company intended to be registered as a company limited by guarantee, of the resolution declaring the amount of the guarantee.

REQUISITIONS FOR REGISTRATION BY EXISTING COMPANY NOT BEING A JOINT STOCK COMPANY.

374. (184.) Previously to the registration in pursuance of this part of this Act of any company, not being a joint stock company, there shall be delivered to the Registrar a list showing the names, addresses, and occupations of the directors or other managers (if any) of the company, also a copy of any act of parliament, letters patent, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company, with the addition, in the case of a company intended to be registered as a company limited by guarantee, of the resolution declaring the amount of guarantee.

POWER TO REGISTER AMOUNT OF STOCK INSTEAD OF SHARES.

375. (185.) Where a joint stock company authorised to register under this Act has had the whole or any portion of its capital converted into stock, such company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares deliver to the Registrar a statement of the amount of stock belonging to the company, and the names of persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

AUTHENTICATION OF STATEMENTS OF EXISTING COMPANIES.

376. (186.) The lists of members and directors, and any other particulars relating to the company hereby required to be

delivered to the Registrar, shall be verified by a declaration of the directors of the company delivering the same, or any two of them, or of any two other principal officers of the company, made in pursuance of the Act passed in the sixth year of the reign of His late Majesty, King William the Fourth, chapter sixty-two.

REGISTRAR MAY REQUIRE EVIDENCE OF NATURE OF COMPANY.

377. (187.) The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing company is or not a joint stock company as herein-before defined.

ON REGISTRATION OF BANKING COMPANY WITH LIMITED LIABILITY, NOTICE TO BE GIVEN TO CUSTOMERS.

378. (188.) Every banking company existing at the date of passing this Act which registers itself as a limited company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm who have a banking account with the company, and such notice shall be given, either by delivering the same to such person or firm, or leaving the same, or putting the same into the post, addressed to him or them at such address as shall have been last communicated, or otherwise become known as his or their address to or by the company; and in case the company omits to give any such notice as is herein-before required to be given, then as between the company and the person or persons only who are, for the time being, interested in the account, in respect of which such notice ought to have been given, and so far as respects such account, and all variations thereof, down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

EXEMPTIONS OF CERTAIN COMPANIES FROM PAYMENT OF FEES.

379. (189.) No fees shall be charged in respect of the Registration in pursuance of this part of this Act of any company in cases where such company is not registered as a limited company,

or where previously to its being registered as a limited company the liability of the shareholders was limited by some other Act of Parliament, or by Letters Patent.

POWER TO COMPANY TO CHANGE NAME.

380. (190.) Any company authorised by this part of this Act to register with limited liability, shall, for the purpose of obtaining registration with limited liability, change its name, by adding thereto the word "limited."

CERTIFICATE OF REGISTRATION OF EXISTING COMPANIES.

381. (191.) Upon compliance with the requisition of this part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the Tables marked B. and C. in the first schedule thereto, the Registrar shall certify under his hand that the company so applying for registration is incorporated as a company under this Act; and, in the case of a limited company, that it is limited, and thereupon such company shall be incorporated, and shall have perpetual succession and a common seal, with power to hold lands; and any banking company in Scotland so incorporated shall be deemed and taken to be a bank incorporated, constituted, or established, by or under Act of Parliament.

CERTIFICATE TO BE EVIDENCE OF COMPLIANCE WITH THE "ACT."

382. (192.) A certificate of incorporation given at any time to any company registered in pursuance of any part of this Act, shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the company is authorised to be registered under this Act as a limited or unlimited company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the company is incorporated under this Act.

TRANSFER OF PROPERTY TO COMPANY.

383. (193.) All such property, real and personal, including all interests and rights in, to, and out of property, real and

personal, and including obligations and things in action, as may belong to or be vested in the company at the date of its registration under this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

REGISTRATION UNDER THE "ACT" NOT TO AFFECT PREVIOUS OBLIGATIONS.

384. (194.) The registration in pursuance of this part of this Act of any company shall not affect or prejudice the liability of such company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of such company previously to such registration.

CONTINUATION OF EXISTING ACTIONS AND SUITS.

385. (195.) All such actions, suits, and other legal proceedings, as may at the time of the registration of any company registered in pursuance of this part of this Act have been commenced by or against such company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of such company upon any judgment, decree or order obtained in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding up the company.

EFFECT OF REGISTRATION UNDER THE "ACT."

386. (196.) When a company is registered under this Act, in pursuance of this part thereof, all provisions contained in any Act of Parliament, deed of settlement, contract of copartnery, cost-book regulations, letters patent, or other instrument, constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if they were contained in a registered Memorandum of Association and

Articles of Association; and all the provisions of this Act shall apply to such company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following; that is to say,—

(1.) That Table A in the first Schedule of this Act shall not, unless adopted by special resolution, apply to any company registered under this Act in pursuance of this part thereof:

(2.) That the provisions of this Act relating to the numbering of shares, shall not apply to any joint stock company whose shares are not numbered.

(3.) That no company shall have power to alter any provision contained in any Act of Parliament relating to the company.

(4.) That no company shall have power without the sanction of the Board of Trade to alter any provision contained in any letters patent relating to the company.

(5.) That in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted prior to registration, who is liable, at law or in equity, to pay or contribute to the payment of any debt or liability of the company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs, charges, and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid; and every such contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and in the event of the death, bankruptcy or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representative, heirs and

devisees of deceased contributories, and with reference to the assignees of bankrupt, or insolvent contributories, and to the husbands of married contributories, shall apply.*

(6.) That nothing herein contained shall authorise any company to alter any such provisions contained in any deed of settlement, contract of copartnery, cost book regulations, letters patent, or other instrument constituting or regulating the company, as would, if such company had originally been formed under this Act, have been contained in the Memorandum of Association, and are not authorised to be altered by this Act:

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any company registering under this Act, in pursuance of this part thereof by virtue of any act of parliament, deed of settlement, contract of copartnery, letters patent, or other instrument constituting or regulating the company.

POWER OF COURT TO RESTRAIN FURTHER PROCEEDINGS.

387. (197.) The court may, at any time after the presentation of a petition for winding up a company registered in pursuance of this part of this Act, and before making an order for winding up the company, upon the application by motion of any creditor of the company, restrain further proceedings in any action, suit, or legal proceeding against any contributory of the company, as well as against the company, as herein-before provided, upon such terms as the court think fit.

ORDER FOR WINDING-UP COMPANY.

388. (198.) Where an order has been made for winding-up a company registered in pursuance of this part of the Act, in addition to the provisions herein-before contained, it is hereby further provided that no suit, action, or other legal proceeding shall be commenced or proceeded with against any contributory of the company in respect of any debt of the company, except with the leave of the court, and subject to such terms as the court may impose.

* For these provisions, see Index, under head of "Contributories."

SYNOPSIS OF TABLE B.

From the Schedule of the "Joint Stock Companies Act, 1856," 19 *and* 20 *Vic., c.* 47.

389. As already stated, this table still applies to such companies as have been formed and registered under the "Joint Stock Companies Acts, 1856-7," and have adopted it; but they may alter any of its provisions by special resolution. (*See* Cl. 265.)

Regulations for the Management of the Company.

SHARES.

390. (1.) No person shall be deemed to have accepted any share unless he has testified the same by writing in such form as the company directs.

(2.) The company may make such calls in respect to all monies unpaid on shares as they think fit, giving not less than twenty-one days' notice thereof, and shareholders shall be liable to pay same as the company directs.

(3.) A call shall be deemed to have been made at the time when the resolution authorising such call was passed.

(4.) Defaulting shareholder shall be liable to pay interest at the rate of £5 per cent. per annum from the day appointed for payment of call to the time of the actual payment.

(5.) The company may receive advances on calls, and may pay interest thereon, at such rate as the shareholder paying such sum in advance and the company agree upon.

(6.) If several persons are registered as joint holders of any share any one of such persons may give effectual receipts for any dividend payable thereon.

(7.) The company may decline to register any transfer of shares made by a shareholder who is indebted to them.

(8.) Every shareholder shall, on payment of not exceeding 1s., be entitled to a certificate of the share or shares held by him, and the amount paid-up thereon.

(9.) If such certificate is worn out or lost it may be renewed on payment of, not exceeding 1s.

(9a.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

TRANSMISSION OF SHARES.

391. (10.) The executors or administrators of a deceased shareholder shall alone be recognised as having any title to his share.

(11.) Any person becoming entitled to a share in any way other than by transfer, may be registered as a shareholder on procuring necessary evidence of the fact.

(12.) Any person who has so become entitled to a share may elect to have some other person registered as the holder of such share.

(13.) The person so becoming entitled shall testify such election by executing to his nominee a deed of transfer of such share.

(14.) Such deed shall be presented to the company with evidence to prove the title of the transferror, and the company shall then register the transferree as a shareholder.

FORFEITURE OF SHARES.

392. (15.) If any shareholder fails to pay any call when due, a notice requiring him to pay same with any interest that may have accrued may be served upon him.

(16.) The notice shall name a further day, and a place at which calls of the company are usually made payable, on, and at which such call is to be paid; it shall also state that in the event of non-payment at the time and place appointed the shares in question will be liable to be forfeited.

(17.) If the latter notice is not complied with the share or shares may be forfeited by a resolution of the directors to that effect.

(18.) Any such shares shall become the property of the company, and may be disposed of as it thinks fit.

(19.) Any shareholder shall, however, still be liable to pay all calls owing upon such shares at the time of the forfeiture.

INCREASE IN CAPITAL.

393. (20.) The company may, with the sanction of a general meeting, increase its captital.

(21.) Any new capital so raised shall be considered as part of the original capital, and subject to the same provisions in all respects.

GENERAL MEETINGS.

394. (22.) The first general meeting shall be held not more than twelve months after the incorporation of the company at such time and place as the directors may determine.

(23.) Subsequent general meetings shall be held as may be prescribed by the company in general meeting; but, failing which, a general meeting shall be held on the first Monday in February in every year at such place as may be determined on by the directors

(24.) The above meetings shall be called ordinary meetings, and all others shall be called extraordinary meetings.

(25.) The directors may, whenever they think fit, and shall, upon a requisition in writing by shareholders holding not less than one-fifth of the company's shares, convene an extraordinary general meeting.

(26.) Such requisition shall express the object of the proposed meeting, and be left at the company's registered office.

(27) Upon the receipt thereof the directors shall forthwith proceed to convene a general meeting, failing which, within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

(28.) Seven days' notice at the least, specifying the

place, time, hour and object of such meeting, shall be advertised, or given in such other manner, if any, as prescribed by the company.

(29) Any shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

(30.) Such notice to be given by leaving a copy of the resolution at the company's registered office.

(31.) No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum, to be ascertained as follows, is present at the commencement thereof, that is to say; if the company's shareholders at the time of the meeting do not exceed ten the quorum shall be five: if they exceed ten, there shall be added one for every additional five up to fifty, and one for every ten after fifty, except that no quorum shall in any case exceed forty.

(32.) If within one hour from the appointed time the required number is not present, the meeting, if convened by the shareholders, shall be dissolved. In any other case it shall stand adjourned to the following day, at the same time and place; and if at such adjournment the required number is not present it shall be adjourned, *sine die*.

(33.) The chairman of the board of directors shall preside at every meeting.

(34.) If there is no such chairman, or if he is absent at the time of holding meeting, the shareholders shall choose one of their number to preside.

(35.) The chairman may, with the consent of the meeting adjourn it, but no fresh business shall be transacted at any such adjournment.

(36.) At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minute book, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded.

(37.) If a poll is demanded it shall be taken as the chairman directs, and the result shall be deemed

to be the resolution of the company in general meeting.

VOTES OF SHAREHOLDERS.

395. (38.) A shareholder shall have one vote for every share up to ten; an additional vote for every five above the first ten up to one hundred, and an additional vote for every ten above the first hundred.

(39.) If any shareholder is a lunatic or idiot he may vote by his committee, curator bonis, or other legal curator; and if a minor he may vote by his guardian, tutor, or curator.

(40.) If one or more persons are jointly entitled to a share or shares the person whose name stands first in the register, and no other, shall be entitled to vote.

(41.) No shareholder shall vote unless all calls due have been paid, nor until he shall have had his shares three calendar months, unless same acquired by bequest, marriage, succession to an intestate's estate, the custom of the city of London, or deed of settlement after the death of person who shall have been entitled for life to the dividends of such shares.

(42.) Votes may be given personally, or by proxies appointed in writing under the hand of the appointee, or if a corporation, under their common seal.

(43.) The proxy must be a shareholder, and the appointment deposited at the company's registered office not less than forty-eight hours before the time of holding the meeting, but no instrument appointing a proxy shall be void after the expiration of one month from the date of its execution.

DIRECTORS.

396. (44.) The number and names of the first directors shall be determined by the subscribers of the Memorandum of Association.

(45.) Until directors are so appointed such subscribers shall be deemed to be directors.

POWERS OF DIRECTORS.

397. (46.) The company's business shall be managed by the directors, who may exercise all such powers as are not required to be done in general meeting, subject to the Articles of Association, and the provisions of this Act; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if same had not been made.

DISQUALIFICATION OF DIRECTORS.

398. (47.) The office of a director shall be vacated :—

If he holds any other office or place of profit under the company;

If he becomes bankrupt or insolvent;

If he is concerned in, or participates in the profits of any contract with, or work done for the company. But no director shall vacate his office by reason of his being a shareholder in any incorporated company which has entered into contracts with, or done any work for the company, of which he is a director; nevertheless, he shall not vote in respect thereof, and if he does so vote, it shall not be counted, and he shall incur a penalty not exceeding £20.

ROTATION OF DIRECTORS.

399. (48.) At the first ordinary meeting after the incorporation of the company the whole of the directors shall retire from office, and at the first ordinary meeting in every subsequent year one third thereof for the time being, or the number nearest to one-third.

(49.) Such one third, or nearest number, retiring during the first and second years, shall, unless the directors agree among themselves, be deter-

mined by ballot. In every subsequent year those who have been longest in office shall retire.

(50.) A retiring director shall be re-eligible.

(51.) The company at the general meeting at which any directors retire shall fill up the vacancies.

(52.) If at such meeting no election is made, it shall stand adjourned till the next day, at the same time and place; and if no election then takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

(53.) The company may, in general meeting, increase or reduce the number of directors, and determine in what rotation they shall go out of office.

(54.) Any casual vacancy may be filled up by the directors, but any person so chosen shall retain his office so long only, as the vacating director would have retained the same if no vacancy had occurred.

PROCEEDINGS OF DIRECTORS.

400. (55.) The directors may meet together as they think fit, and determine the quorum necessary for the transaction of business. Questions arising shall be decided by a majority of votes, and in case of an equality, the chairman shall have an additional casting vote. A director may at any time summon a meeting of the directors.

(56.) The directors may elect a chairman, and determine how long he is to hold office; but failing which, or if the chairman is absent at the time appointed for holding the meeting, the directors present shall choose some one of their number to be chairman thereof.

(57.) The directors may delegate any of their powers to committees of such members of their body as they think fit, and the latter shall conform to any regulations imposed by the directors.

(58.) Such committee may elect a chairman, failing

which, or in case of absence, the members shall choose one of their number to preside.

(59.) A committee may meet and adjourn, as they think proper. Questions arising shall be determined by a majority of votes of the members present, the chairman to have a casting vote.

(60.) No acts done by any meeting or committee of directors, or by person acting as a director, shall be invalid by reason of the subsequent discovery of any defect in the appointment.

(61.) The directors shall cause minutes to be made,

(1.) Of all appointments of officers.

(2.) Of the names of the directors present at each meeting of directors and committees thereof.

(3.) Of all orders made by the directors and committees; and

(4.) Of all the proceedings of meetings of the company, and of the directors and committees thereof.

And any such minute signed by the chairman of any meeting of directors, or committee thereof, shall be receivable in evidence without further proof.

(62.) The company in general meeting may, by a special resolution, remove any director, and appoint another in his stead, who shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

DIVIDENDS.

401. (63.) The directors may, with the sanction of the company in general meeting, declare a dividend.

(64.) No dividend shall be payable, except out of the profits arising from the business of the company.

(65.) The directors may, set aside out of the profits of the company, such sum as they think proper as a reserved fund to meet contingencies, &c.; and may invest such sum as a reserved fund upon such securities as they, with the sanction of the company, may select.

(66.) The directors may deduct from the dividends payable to any shareholder any sums of money due from him for calls or otherwise.

(67.) Notice of dividend shall be given to each shareholder, or sent by post, or otherwise, to his registered place of abode; and all dividends unclaimed for three years after being declared may be forfeited for the benefit of the company.

(68.) No dividend shall bear interest as against the company.

ACCOUNTS.

402. (69.) The directors shall cause true accounts to be kept:—
Of the stock-in-trade of the company;
Of the receipts and expenditure; and
Of the credits and liabilities of the company.
Such accounts shall be kept, by double entry, in a cash-book, journal, and ledger. The books of account shall be kept at the principal office, and, subject to any reasonable restrictions that may be imposed by the company in general meeting, shall be open to the inspection of the shareholders during business hours.

(70.) Once at least in every year the directors shall lay before the company in general meeting, a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(71.) Such statement shall show, under the most convenient heads, the gross income, with the several sources from which it has been derived, and the gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters Every item fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years, has been incurred, the whole amount shall be stated, with the addition of the reasons why only a

portion thereof is charged against the income of the year.

(72.) A balance sheet shall be made out every year and laid before the general meeting, and shall contain a summary of the property and liabilities of the company, arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

NOTE.—*(The form first referred to so closely resembles the one under the new "Act," (Cl. 425,) that it is unnecessary to give it here, the only difference is, that in the present form under the head of capital, a distinction must be made between calls due from directors and officers, and those due from shareholders.)*

(73.) A printed copy of such balance sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

AUDIT.

403. (74.) The accounts of the company and the balance sheet shall be examined by one or more auditor or auditors, to be elected by the company in general meeting.

(75.) If not more than one appointed, all the provisions relating to auditors shall apply to him.

(76.) Auditors need not be shareholders; but no person eligible who is interested otherwise than as a shareholder in the company; and no director or other officer during his continuance in office.

(77.) The election shall take place at the company's ordinary meeting, or if more than one, at the first in each year.

(78.) The remuneration shall be fixed by the company at the time of their election.

(79.) Any auditor shall be re-eligible on his quitting office.

(80.) If any casual vacancy occurs, the directors shall forthwith call an extraordinary meeting for the purpose of supplying the same.

(81.) If no election is made, the Board of Trade may,

on the application of one-fifth in number of the shareholders, appoint an auditor for the current year, and fix his remuneration.

(82.) He shall be supplied with a copy of the balance sheet, and it shall be his duty to examine and vouch same.

(83.) He shall have a list of all books kept by the company, and shall have access to the books and accounts; he may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation thereto, examine the directors or any other officer of the company.

(84.) The auditors shall make a report to the shareholders upon the balance sheet and accounts, and they shall state whether such balance sheet is a full and fair one, containing the particulars required by these regulations, and properly drawn up, so as to exhibit a true and correct view of the state of the company's affairs; and in case they have called for explanations or information from the directors, whether the same have been given and whether satisfactory; and such report shall be read, together with that of the directors, at the ordinary meeting.

NOTICES.

404. (85.) Notices requiring to be served upon the shareholders, may be served either personally, or by leaving the same, or by sending them through the post in a letter addressed to the shareholders at their registered place of abode.

(86.) All notices directed to be given to the shareholders, shall, with respect to any share to which persons are jointly entitled, be given to whichever is named first in the register, and such notice shall be sufficient to all the proprietors of such shares.

(87.) All notices required by this Act to be given by advertisement, shall be advertised in a newspaper circulating in a district in which the registered office of the company is situate.

PART VII.

FORMS FROM THE SCHEDULES TO THE "ACT."

405. As to a company having the option of adopting, rejecting, altering or modifying the following form of Articles of Association, see Cl. 13.

Also as to power to alter the Articles of Association after the registration of the company, see Cl. 113.

Also as to existing companies having power to adopt this form of articles, by special resolution, see Cl. 386.

FIRST SCHEDULE.

Table A.—Regulations for Management of a Company limited by Shares.

SHARES.

406. (1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of one shilling, or such less sum as the company in general meeting may prescribe, be entitled to a certificate, under the common seal of the company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of one shilling, or such less sum as the company in general meeting may prescribe.

Calls on Shares.

407. (4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call, and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5.) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five pounds per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

408. (8.) The instrument of transfer of any share in the company shall be executed both by the transferror and transferree, and the transferror shall be deemed to remain a holder of such share until the name of the transferree is entered in the register book in respect thereof.

(9.) Shares in the company shall be transferred in the following form. *See* Cl. 61.

(10.) The company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

TRANSMISSION OF SHARES.

409. (12.) The executors or administrators of a deceased member shall be the only persons recognised by the company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferree of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the company, accompanied with such evidence as the directors may require to prove the title of the transferror, and thereupon the company shall register the transferree as a member.

FORFEITURE OF SHARES.

410. (17.) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such nonpayment.

(18.) The notice shall name a further day, on or before which such call, and all interest and expenses that have accrued by reason of such nonpayment, are to be paid. It shall also name the place where payment is to be made (the place so named being either the registered office of the company or some other place at which calls of the company are usually made payable). The notice shall also state that in the event of nonpayment at or before the time

and at the place appointed the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited, by a resolution of the directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company in general meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

(22.) A statutory declaration in writing, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration, and the receipt of the company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

411. (23.) The directors may, with the sanction of the company previously given in general meeting, convert any paid up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate

in the dividends and profits of the company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

INCREASE IN CAPITAL.

412. (26.) The directors may, with the sanction of a special resolution of the company previously given in general meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given, that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on nonpayment of calls, or otherwise, as if it had been part of the original capital.

GENERAL MEETINGS.

413. (29.) The first general meeting shall be held at such time, not being more than six months after the registration of the company, and at such place, as the directors may determine.

(30.) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32.) The Directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth of the members of the company, convene an extraordinary general meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

(34.) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the required number, may themselves convene an extraordinary general meeting.

PROCEEDINGS AT GENERAL MEETINGS.

414. (35.) Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at

an ordinary meeting, with the exception of sanctioning a dividend and the consideration of the accounts, balance sheets, and the ordinary report of the directors.

(37.) No business shall be transacted at any general meeting except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows, that is to say, if the persons who have taken shares in the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved: in any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(39.) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the company.

(40.) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43.) If a poll is demanded by five or more members it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of

the company in general meeting. In the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote.

VOTES OF MEMBERS.

415. (44.) Every member shall have one vote for every share up to ten: he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee, curator bonis, or other legal curator.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer at any meeting held after the expiration of three months from the registration of the company unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses: no person shall be appointed a proxy who is not a member of the company.

(50.) The instrument appointing a proxy shall be deposited at the registered office of the company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote, but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form.—(*See* Cl. 90.)

DIRECTORS.

416. (52.) The number of the directors, and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(53.) Until directors are appointed the subscribers of the memorandum of association shall be deemed to be directors.

(54.) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the company in general meeting.

POWERS OF DIRECTORS.

417. (55.) The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the foregoing Act, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56.) The continuing directors may act, notwithstanding any vacancy in their body.

DISQUALIFICATION OF DIRECTORS.

418. (57.) The office of director shall be vacated,—

If he holds any other office or place of profit under the company:

If he becomes bankrupt or insolvent:

If he is concerned in or participates in the profits of any contract with the company:

But the above rules shall be subject to the following

exceptions: that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

ROTATION OF DIRECTORS.

419. (58.) At the first ordinary meeting after the registration of the company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one third, shall retire from office.

(59.) The one third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year one third or other nearest number who have been longest in office shall retire.

(60.) A retiring director shall be re-eligible.

(61.) The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63.) The company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so

chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The company, in general meeting, may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead: The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

PROCEEDINGS OF DIRECTORS.

420. (66.) The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business: Questions arising at any meeting shall be decided by a majority of votes: In case of an equality of votes, the chairman shall have a second or casting vote: A director may at any time summon a meeting of the directors.

(67.) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68.) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit: Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

(69.) A committee may elect a chairman of their meetings: If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70.) A committee may meet and adjourn as they think proper: Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

DIVIDENDS.

421. (72.) The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the company.

(74.) The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserved fund to meet contingencies, or for equalising dividends, or for repairing or maintaining the works connected with the business of the company, or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The directors may deduct from the dividends payable to any member, all such sums of money as may be due from him to the company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared, may be forfeited by the directors for the benefit of the company.

(77.) No dividend shall bear interest as against the company.

ACCOUNTS.

422 (78.) The directors shall cause true accounts to be kept,—

Of the stock in trade of the company;

Of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place; and,

Of the credits and liabilities of the company;

The books of account shall be kept at the registered office of the company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the directors shall lay before the company in general meeting, a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters: Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance sheet shall be made out in every year, and laid before the company in general meeting, and such balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance sheet shall, seven days previously to such meeting, be served on every member, in the manner in which notices are hereinafter directed to be served.

AUDIT.

123. (83.) Once at the least in every year the accounts of the company shall be examined, and the correctness of the balance sheet ascertained, by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the directors: Subsequent auditors shall be appointed by the company in general meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the company; and no director or other officer of the company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the company in general meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid the Board of Trade may, on the application of not less than five members of the company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the company for his services.

(92.) Every auditor shall be supplied with a copy of the balance sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the company, and shall at all reasonable times have access to the books and accounts of the company: He may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the company.

(94.) The auditors shall make a report to the members upon the balance sheet and accounts, and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanations or information from the directors, whether

such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

NOTICES.

424. (95.) A notice may be served by the company upon any member, either personally or by sending it through the post in a prepaid letter, addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containg the notices was properly addressed and put into the post-office.

For Table B, see Cl. 21.
„ „ C, „ 22.
„ Form D, „ 34.

Dr. BALANCE SHEET of the Co. made up to 18 Cr.

CAPITAL AND LIABILITIES.			£ s. d.	£ s. d.
I. Capital		Showing:		
	1.	The number of shares . . .		
	2.	The amount paid per share . .		
	3.	If any arrears of calls, the nature of the arrear, and the names of the defaulters.		
	4.	The particulars of any forfeited shares		
II. Debts and Liabilities of the Company.		Showing:		
	5.	The amount of loans on mortgages or debenture bonds		
	6.	The amount of debts owing by the Company, distinguishing		
		(*a.*) Debts for which acceptances have been given.		
		(*b.*) Debts to tradesmen for supplies of stock in trade or other articles.		
		(*c.*) Debts for law expenses.		
		(*d.*) Debts for interest on debentures or other loans.		
		(*e.*) Unclaimed dividends.		
		(*f.*) Debts not enumerated above		
VI. Reserve Fund.		Showing: The amount set aside from profits to meet contingencies.		
VII. Profit and Loss.		Showing: The disposable balance for payment of dividend, &c.		
Contingent Liabilities.		Claims against the Company not acknowledged as debts.		
		Monies for which the Company is contingently liable.		

PROPERTY AND ASSETS.			£ s. d.	£ s. d.
III. Property held by the Company.		Showing:		
	7.	Immovable property, distinguishing		
		(*a.*) Freehold land . . .		
		(*b.*) ,, buildings . .		
		(*c.*) Leasehold ,, . .		
	8.	Moveable property, distinguishing		
		(*d.*) Stock in trade . . .		
		(*e.*) Plant		
		The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss.		
IV. Debts owing to the Company.		Showing:		
	9.	Debts considered good for which the Company hold bills or other securities.		
	10.	Debts considered good for which the Company hold no security.		
	11.	Debts considered doubtful and bad		
		Any debt due from a director or other officer of the Company to be separately stated.		
V. Cash and Investments.		Showing:		
	12.	The nature of investment and rate of interest.		
	13.	The amount of cash, where lodged, and if bearing interest.		

SECOND SCHEDULE.

Form A.—Memorandum of Association of a Company limited by Shares.

426. 1st. The name of the company is "The Eastern Steam "Packet Company, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are, "The conveyance of passengers and goods in ships or boats "between such places as the company may from time to time "determine, and the doing all such other things as are inci- "dental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The capital of the company is two hundred thousand pounds, divided into one thousand shares of two hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
"1. John Jones of in the county of merchant	200
"2. John Smith of in the county of . .	25
"3. Thomas Green of in the county of . .	30
"4. John Thompson of in the county of . .	40
"5. Caleb White of in the county of . .	15
"6. Andrew Brown of in the county of . .	5
"7. Cæsar White of in the county of . .	10
Total shares taken . . .	325

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A. B., No. 13, Hute St., Clerkenwell, Middlesex.

Form B.—Memorandum and Articles of Association of a Company limited by Guarantee, and not having a Capital divided into Shares.

MEMORANDUM OF ASSOCIATION.

427. 1st. The name of the Company is "The Mutual London "Marine Association, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are, "The mutual insurance of ships belonging to members of the "company, and the doing all such other things as are inci- "dental or conducive to the attainment of the above objects."

4th. Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

"1. John Jones of	in the county of	merchant.
"2. John Smith of	in the county of	
"3. Thomas Green of	in the county of	
"4. John Thompson of	in the county of	
"5. Caleb White of	in the county of	
"6. Andrew Brown of	in the county of	
"7. Cæsar White of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A. B., No. 13, Hute Street, Clerkenwell, Middlesex.

Articles of Association to accompany preceding Memorandum of Association.

428. (1.) The company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

DEFINITION OF MEMBERS.

(3.) Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

GENERAL MEETINGS.

(4.) The first general meeting shall be held at such time, not being more than three months after the incorporation of the company, and at such place, as the directors may determine.

(5.) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

(9.) Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting: If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other five members, may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business; and such quorum shall be ascertained as follows: that is to say, if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved: In any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned

meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting.

VOTES OF MEMBERS.

(19.) Every member shall have one vote, and no more.

(20.) If any member is a lunatic or idiot he may vote by his committee, curator bonis, or other legal curator.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the company have been paid.

(22.) Votes may be given either personally or by proxies: A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding of the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

Company Limited.

I of in the county of being a member of the Company Limited, hereby appoint of as my proxy, to vote for me and on my behalf at the [ordinary *or* extraordinary, *as the case may be*] general meeting of the company to be held on the day of , and at any adjournment thereof to be held on the day of next [*or*, at any meeting of the company that may be held in the year].

As witness my hand, this day of

Signed by the said in the presence of

DIRECTORS.

(25.) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the Memorandum of Association.

(26.) Until directors are appointed, the subscribers of the Memorandum of Association shall for all the purposes of this Act be deemed to be directors.

POWERS OF DIRECTORS.

(27.) The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not hereby required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

ELECTION OF DIRECTORS.

(28.) The directors shall be elected annually by the company in general meeting.

BUSINESS OF COMPANY.

[*Here insert rules as to mode in which business of insurance is to be conducted.*]

ACCOUNTS.

(29.) The accounts of the company shall be audited by a committee of five members, to be called the audit committee.

(30.) The first audit committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit committee shall be supplied with a copy of the balance sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit committee shall have a list delivered to them of all books kept by the company, and they shall at all reasonable times have access to the books and accounts of the company: They may, at the expense of the company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to

such accounts examine the directors or any other officer of the company.

(34.) The audit committee shall make a report to the members upon the balance sheet and accounts, and in every such report they shall state whether in their opinion the balance sheet is a full and fair balance sheet, containing the particulars required by these regulations of the company, and properly drawn up, so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanation or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory, and such report shall be read together with the report of the directors at the ordinary meeting.

NOTICES.

(35) A notice may be served by the company upon any member either personally, or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

WINDING UP.

(37.) The company shall be wound up voluntarily whenever an extraordinary resolution, as defined by the Companies Act, 1862, is passed, requiring the company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

" 1. John Jones of in the county of merchant.
" 2. John Smith of in the county of
" 3. Thomas Green of in the county of
" 4. John Thompson of in the county of
" 5. Caleb White of in the county of
" 6. Andrew Brown of in the county of
" 7. Cæsar White of in the county of

Dated the 22nd day of November 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

Form C.—Memorandum and Articles of Association of a Company limited by Guarantee, and having a capital divided into Shares.

MEMORANDUM OF ASSOCIATION.

429. 1st. The name of the company is "The Highland Hotel "Company, Limited."

2nd. The registered office of the company will be situate in Scotland.

3rd. The objects for which the company is established are "the facilitating travelling in the Highlands of Scotland, by "providing hotels and conveyances by sea and by land for the "accommodation of travellers, and the doing all such other "things as are incidental or conducive to the attainment of the "above object."

4th. Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding twenty pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

"1. John Jones of in the county of merchant.
"2. John Smith of in the county of
"3. Thomas Green of in the county of
"4. John Thompson of in the county of
"5. Caleb White of in the county of
"6. Andrew Brown of in the county of
"7. Cæsar White of in the county of

Dated the 22nd day of November, 1861.

Witness to the above signatures,
A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

Articles of Association to accompany preceding Memorandum of Association.

430. 1. The capital of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A. shall be deemed to be incorporated with these articles, and to apply to the company.

WE, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
"1. John Jones of in the county of . .	200
"2. John Smith of in the county of . .	25
"3. Thomas Green of in the county of . .	30
"4. John Thompson of in the county of . .	40
"5. Caleb White of in the county of . .	15
"6. Andrew Brown of in the county of . .	5
"7. Cæsar White of in the county of . .	10
Total shares taken . . .	325

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A. B., No. 13, Hute St., Clerkenwell, Middlesex.

Form D. Memorandum and Articles of Association of an Unlimited Company, having a Capital divided into Shares.

MEMORANDUM OF ASSOCIATION.

431. 1st. The name of the company is "The Patent Stereotype "Company."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are "the working of a patent method of founding and casting "stereotype plates, of which method John Smith, of London, "is the sole patentee."

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names Addresses, and Descriptions of Subscribers.

"1. John Jones of	in the county of	merchant.
"2. John Smith of	in the county of	
"3. Thomas Green of	in the county of	
"4 John Thompson of	in the county of	
"5. Caleb White of	in the county of	
"6. Andrew Brown of	in the county of	
"7. Abel Brown of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,
A. B., No. 20, Bond Street, Middlesex.

Articles of Association to accompany the preceding Memorandum of Association.

Capital of the Company.

432. The capital of the company is two thousand pounds, divided into twenty shares of one hundred pounds each.

Application of Table A.

All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the company.

WE, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by Subscribers.
"1. John Jones of in the county of merchant	1
"2. John Smith of in the county of . .	5
"3. Thomas Green of in the county of . .	2
"4. John Thompson of in the county of . .	2
"5. Caleb White of in the county of . .	3
"6. Andrew Brown of in the county of . .	4
"7. Abel Brown of in the county of . .	1
Total shares taken . . .	18

Dated the 22nd day of November, 1861.
Witness to the above signatures,
A. B., No, 20, Bond Street, Middlesex.

For Form E. see Cl. 39.

Form F. Licence to hold Lands.

433. The Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations hereby license the Association, Limited, to hold the lands hereunder described [*insert description of lands*]. The conditions of this licence are [*insert conditions, if any*].

INDEX.

NOTE.—This work having (for facility of reference) been divided into paragraphs or clauses, the following numbers will be found to indicate such clauses, and not *pages* as is usually the case.